

**S.R. 712** - By Doggett: Extending welcome to Kim Henley.

**S.R. 713** - By Doggett: Extending welcome to Maggie Ellis, Honorary Page for the Day.

**S.R. 714** - By Doggett: Extending welcome to Deanna Quick, Honorary Page for the Day.

**S.R. 715** - By Doggett: Extending welcome to Emily Turner, Honorary Page for the Day.

**S.R. 716** - By Doggett: Extending welcome to Joey Walker, Honorary Page for the Day.

**S.R. 717** - By Brooks: Extending welcome to Ms. Sara Ehrman of the American Israeli Public Affairs Committee.

### ADJOURNMENT

On motion of Senator Mauzy, the Senate at 12:58 o'clock a.m. adjourned until 10:00 o'clock a.m. today.

### APPENDIX

**Sent to Governor**  
**(May 27, 1983)**

**S.B. 232**

**Filed Without Signature of Governor**  
**(May 27, 1983)**

**H.C.R. 100**  
**H.C.R. 159**  
**H.C.R. 173**  
**H.C.R. 174**  
**H.C.R. 197**

### SEVENTY-SEVENTH DAY

**(Saturday, May 28, 1983)**

The Senate met at 10:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

A quorum was announced present.

Senator John Sharp offered the invocation.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**SENATE RESOLUTION ON FIRST READING**

On motion of Senator Caperton and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

**S.C.R. 138** by Caperton Administration  
Directing the Public Utility Commission to conduct a study concerning certain public utilities who have filed a rate increase request.

**HOUSE BILLS ON FIRST READING**

The following bills received from the House were read the first time and referred to the Committee indicated:

**H.B. 2329**, To Committee on Administration.  
**H.B. 2384**, To Committee on Administration.  
**H.B. 2429**, To Committee on Administration.  
**H.B. 2448**, To Committee on Administration.

**REPORT OF STANDING COMMITTEE**

Senator Mauzy submitted the following report for the Committee on Jurisprudence:

**S.B. 1374**  
**H.B. 529**  
**H.B. 1191** (Amended)

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

<b>H.C.R. 60</b>	<b>H.B. 500</b>	<b>H.B. 1500</b>
<b>H.C.R. 88</b>	<b>H.B. 524</b>	<b>H.B. 1554</b>
<b>H.C.R. 108</b>	<b>H.B. 590</b>	<b>H.B. 1603</b>
<b>H.C.R. 117</b>	<b>H.B. 736</b>	<b>H.B. 1608</b>
<b>H.C.R. 130</b>	<b>H.B. 793</b>	<b>H.B. 1613</b>
<b>H.C.R. 166</b>	<b>H.B. 827</b>	<b>H.B. 1655</b>
<b>H.C.R. 214</b>	<b>H.B. 838</b>	<b>H.B. 1677</b>
<b>H.C.R. 217</b>	<b>H.B. 846</b>	<b>H.B. 1710</b>
<b>H.C.R. 253</b>	<b>H.B. 860</b>	<b>H.B. 1743</b>
<b>H.B. 18</b>	<b>H.B. 882</b>	<b>H.B. 1794</b>
<b>H.B. 30</b>	<b>H.B. 965</b>	<b>H.B. 1819</b>
<b>H.B. 64</b>	<b>H.B. 1019</b>	<b>H.B. 1833</b>
<b>H.B. 171</b>	<b>H.B. 1054</b>	<b>H.B. 1834</b>
<b>H.B. 179</b>	<b>H.B. 1061</b>	<b>H.B. 1848</b>
<b>H.B. 186</b>	<b>H.B. 1118</b>	<b>H.B. 1964</b>
<b>H.B. 283</b>	<b>H.B. 1125</b>	<b>H.B. 1986</b>
<b>H.B. 413</b>	<b>H.B. 1208</b>	<b>H.B. 2031</b>
<b>H.B. 444</b>	<b>H.B. 1212</b>	<b>H.B. 2107</b>
<b>H.B. 450</b>	<b>H.B. 1254</b>	<b>H.B. 2112</b>
<b>H.B. 484</b>	<b>H.B. 1291</b>	<b>H.B. 2118</b>
<b>H.B. 487</b>	<b>H.B. 1301</b>	<b>H.B. 2158</b>

**SENATE BILL 231 WITH HOUSE AMENDMENT**

Senator Brown called **S.B. 231** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - D. Hudson

Substitute the following for S.B. 231:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the continuation, membership, operation, administration, and powers and duties of the Antiquities Committee and to certain information which a state agency must make available to the State Purchasing and General Services Commission for the committee; amending the Natural Resources Code, as amended, by amending Subsection (b), Section 191.051 and Sections 191.011, 191.104, 191.017, 191.053, 191.054, 191.055, and 191.056, 191.058; amending Section 191.003 by adding Subdivision (3); amending Subchapter B, Chapter 191, by adding Sections 191.020, 191.021, 191.022, and 191.023; Subchapter C, Chapter 191, by adding Section 191.059; and Subchapter D, Chapter 191, by adding Section 191.098; amending Section 8.02, State Purchasing and General Services Act by adding Subsection (e); and repealing Section 3a, Antiquities Code of Texas (Article 6145-9, Vernon's Texas Civil Statutes), as added by Section 2.079, Chapter 735, Acts of the 65th Legislature, Regular Session, 1977.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 191.003, Natural Resources Code, is amended by adding Subdivision (3) to read as follows:

"(3) 'State agency' means a department, commission, board, office, or other agency that is a part of state government and that is created by the constitution or a statute of this state. The term includes an institution of higher education as defined by Section 61.003, Texas Education Code.

**SECTION 2.** Section 191.011, Natural Resources Code, is amended to read as follows:

"Section 191.011. CREATION AND MEMBERSHIP OF COMMITTEE. (a) There is created an Antiquities Committee, which is composed of nine [seven] members, including the Chairman [Director] of the Texas Historical Commission or a member of the commission designated by the Chairman, the Director of the Parks and Wildlife Department, the Commissioner of the General Land Office, the State Archeologist, the State Engineer-Director of the State Department of Highways and Public Transportation, the Executive Director of the Texas Department of Water Resources, and the following citizen members: one professional archeologist from a recognized museum or institution of higher learning in Texas; one professional historian with expertise in Texas history and culture, and one professional museum director of a major, state-funded museum that has significant research facilities [the Director of the Texas Memorial Museum of The University of Texas System].

"(b) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the committee may not serve as a member of the committee or act as the general counsel to the committee.

"(c) Appointments to the committee shall be made without regard to the race, creed, sex, religion, or national origin of the appointee."

**SECTION 3.** Section 191.014, Natural Resources Code, is amended to read as follows:

"Section 191.014. TERM OF CITIZEN MEMBERS. Each citizen member of the committee shall serve for a term of two years expiring on January 31 of each odd-numbered year [coexistent with the governor appointing him and until his successor is appointed and qualifies]."

SECTION 4. Section 191.017, Natural Resources Code, is amended to read as follows:

“Section 191.017. QUORUM. Five [Four] members of the committee constitute a quorum for conducting business.”

SECTION 5. Subsection (b), Section 191.051, Natural Resources Code, is amended to read as follows:

“(b) The committee shall:

“(1) maintain an inventory of the items recovered and retained by the State of Texas, showing the description and depository of them;

“(2) determine the site of and designate landmarks and remove from the designation certain sites, as provided in Subchapter D of this chapter;

“(3) contract or otherwise provide for discovery [and salvage] operations and scientific investigations under the provisions of Section 191.053 of this code;

“(4) consider the requests for and issue the permits provided for in Section 191.054 of this code; [and]

“(5) prepare and make available to the general public and appropriate state agencies information of consumer interest describing the functions of the committee and the procedures by which complaints are filed with and resolved by the committee; and

“(6) protect and preserve the archeological resources of Texas.”

SECTION 6. Subchapter B, Chapter 191, Natural Resources Code, is amended by adding Sections 191.020, 191.021, 191.022, and 191.023 to read as follows:

“Section 191.020. REMOVAL OF CITIZEN COMMITTEE MEMBER. (a) It is a ground for removal of a citizen member from the committee if the member:

“(1) does not have at the time of appointment the qualifications required by Sections 191.011 and 191.012 of this code for appointment to the committee; or

“(2) does not maintain during the service on the committee the qualifications required by Sections 191.011 and 191.012 of this code.

“(b) The validity of an action of the committee is not affected by the fact that it was taken when a ground for removal of a member of the committee existed.

“Section 191.021. COMPLIANCE WITH OPEN MEETINGS ACT AND ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT. (a) The committee is subject to the open meetings act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

“(b) If an institution of higher education notifies the committee in a timely manner (as established by the committee's rules) that it protests the proposed designation of a building under its control as a landmark, the matter becomes a contested case under the provisions of Sections 12 through 20 of the Administrative Procedure and Texas Register Act. In the conduct of proceedings under the Administrative Procedure and Texas Register Act, both the hearing officer in his or her recommendations to the committee and the committee in its determinations of findings of fact and conclusions of law shall consider, in addition to such other objective criteria as the committee may establish pursuant to Section 191.091 of this Chapter:

“(1) that the primary mission of institutions of higher education is the provision of educational services to the state's citizens;

“(2) that the authority for expenditure of the portion of the state's resources allocated to institutions of higher education for construction and repair purposes is entrusted to the governing boards of institutions of higher education for the purpose of the furtherance of the primary mission of the respective institutions of higher education;



(3) whether the benefit to the state from landmark designation outweighs the potential inflexibility of use that may be a consequence of the designation; and

(4) whether the cost of remodeling and/or restoration that might be required under the permit procedures of the committee if the building were designated as a landmark may be so substantially greater than remodeling under procedures established by law for the review of remodeling projects for higher education buildings not so designated as to impair the proper use of funds designated by the state for educational purposes at the institution.

(c) If an institution of higher education notifies the committee in a timely manner (as established by the committee's rules) that it protests the terms of a permit proposed to be granted to an institution of higher education under this Chapter, the matter becomes a contested case under the provisions of Sections 12 through 20 of the Administrative Procedure and Texas Register Act. The hearing officer in his or her recommendations to the committee and the committee in its determination of findings of fact and conclusions of law shall consider:

(1) that the primary mission of institutions of higher education is the provision of educational services to the state's citizens;

(2) that the authority for expenditure of the portion of the state's resources allocated to institutions of higher education for construction and repair purposes is entrusted to the governing boards of institutions of higher education for the purpose of the furtherance of the primary mission of the respective institutions of higher education;

(3) whether the legislature has provided extra funds that may be required to implement any proposed requirements;

(4) the effect of any proposed requirements on maintenance costs;

(5) the effect of any proposed requirements on energy costs; and

(6) the appropriateness of any proposed permit requirements to the uses to which a public building has been or will be dedicated by the governing board of the institution of higher education.

(d) Weighing the criteria set forth in Subsections (b) and (c) of this Section against the criteria it adopts pursuant to Section 191.092 of this Chapter and such criteria as it may adopt with regard to permit requirements, the committee shall designate a building under the control of an institution of higher education as a landmark or include a requirement in a permit only if the record before the committee establishes by clear and convincing evidence that such designation or inclusion would be in the public interest.

"Section 191.022. AUDITS. The State Auditor shall audit the financial transactions of the Committee during each fiscal year.

"Section 191.023. APPLICATION OF SUNSET ACT. The Antiquities Committee is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the committee is abolished effective September 1, 1995."

SECTION 7. Sections 191.053, 191.054, 191.055, 191.056 and 191.058, Natural Resources Code, are amended to read as follows:

"Section 191.053. CONTRACT FOR DISCOVERY AND SCIENTIFIC INVESTIGATION [SALVAGE]. (a) The committee may contract with other state agencies or institutions and with qualified private institutions, corporations, or individuals for the discovery and scientific investigation [salvage] of sunken or abandoned ships or wrecks of the sea, or any part of [or] the contents of them, or treasure imbedded in the earth.

(b) [At the discretion of the committee the contract may provide for fair compensation to the salvager in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered. The contract may provide for appraisal by qualified experts or by representatives of the contracting

parties to determine the reasonable cash value. The committee shall determine the amount constituting a fair share taking into consideration the circumstances of each operation:

"[(c)] The contract shall:

"(1) be on a form approved by the attorney general;

"(2) specify the location, nature of the activity, and the time period covered by the contract; and

"(3) provide for the termination of any right in the investigator [salvager] or permittee under the contract on the violation of any of the terms of the contract.

"(c) [(d)] The executed contract shall be recorded by the person, firm, or corporation obtaining the contract in the office of the county clerk in the county or counties in which the operations are to be conducted prior to the commencement of the operation.

"(d) [(e)] Title to all objects recovered is retained by the State of Texas unless and until it is released [to the salvager or permittee] by the committee.

"Section 191.054. PERMIT FOR TAKING, EXCAVATION [SALVAGE], RESTORATION, OR STUDY. (a) The committee may issue a permit to other state agencies or institutions or to qualified private institutions, companies, or individuals for the taking, [salvage,] excavation, or restoration of, or the conduct of scientific or educational studies at, in, or on landmarks, if it is the opinion of the committee that the permit is in the best interest of the State of Texas.

(b) RESTORATION shall be defined as any rehabilitation of a landmark excepting normal maintenance or alterations to non-public interior spaces.

"[(b)] The permit may provide for the permittee to retain a portion of any recovery as provided for contracting parties under the provisions of Section 191.053 of this code:]

(c) The permit shall:

"(1) be on a form [in compliance with forms] approved by the attorney general;

"(2) specify the location, nature of the activity, and the time period covered by the permit; and

"(3) provide for the termination of any right in the investigator or permittee under the permit on the violation of any of the terms of the permit.

"Section 191.055. SUPERVISION. All scientific investigations [salvage] or recovery operations conducted under the contract provisions in Section 191.053 of this code and all operations conducted under permits or contracts set out in Section 191.054 of this code must be carried out:

"(1) under the general supervision of the committee;

"(2) in accordance with reasonable rules adopted by the committee; and

"(3) in such manner that the maximum amount of historic, scientific, archeological, and educational information may be recovered and preserved in addition to the physical recovery of items.

"Section 191.056. ACCEPTANCE OF GIFTS [PURCHASE FROM SALVAGER OR PERMITTEE]. The committee may accept gifts, grants, devises, or bequests of money, securities, or property to be used in the pursuance of its activities and the performance of its duties. [(a)] The committee may purchase from the salvager or permittee the salvager's or permittee's share or portion of a share of items recovered that in the opinion of the committee should remain the property of the state. The committee may spend any appropriations made for this purpose that it considers advisable.

"[(c)] The committee may contract or agree with persons, firms, corporations, or institutions that, for the privilege of retaining temporary possession of the items, the person, firm, corporation, or institution may advance to the committee the money necessary to procure from the salvager or permittee the items the committee

determines should remain the property of the State of Texas on the condition that at any time the committee may repay the person, firm, corporation, or institution the sum so advanced without interest or additional charge of any kind, and recover possession of the items. During the time the items are in the possession of the person, firm, corporation, or institution advancing the money for the purchase of them, the items shall be available for viewing by the general public without charge or at no more than a nominal admission fee, and the items may not be removed from the State of Texas except on the express authorization of the committee for appraisal, exhibition, or restoration purposes.]”

Section 191.058 is amended by adding Subsection (c).

“(c) Arrangements for curation of artifacts, data, and other materials recovered under Texas Antiquities Committee permits are specified in the body of the permit. Should a state agency lack the facilities or for any reason be unable to curate or provide responsible storage for such artifacts, data, or other materials, the Texas Antiquities Committee will arrange for curation at a suitable institution.”

SECTION 8. Subchapter C, Chapter 191, Natural Resources Code, is amended by adding Section 191.059 to read as follows:

“Section 191.059. COMPLAINTS. (a) The committee shall keep an information file about each complaint filed with the committee.

“(b) If a written complaint is filed with the committee, the committee at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint.”

SECTION 9. Subchapter D, Chapter 191, Natural Resources Code, is amended by adding Section 191.098 to read as follows:

“Section 191.098. NOTIFICATION OF ALTERATION OR DEMOLITION OF POSSIBLE LANDMARK. (a) A state agency may not alter, renovate, or demolish a building possessed by the state that was constructed at least 45 years before the alteration, renovation, or demolition and that has not been designated a landmark by the committee, without notifying the committee of the proposed alteration, renovation, or demolition not later than the 60th day before the day on which the agency begins the alteration, renovation, or demolition.

(b) After receipt of the notice the committee may waive the waiting period, however, if the committee institutes proceedings to determine whether the building is a state archeological landmark under Section 191.092 of this code not later than the 60th day after the day on which the notice is received by the committee, the agency must obtain a permit from the committee before beginning an alteration, renovation, or demolition of the building during the time that the committee’s proceedings are pending.

(c) Should the committee fail to provide a substantive response within 60 days to a request for a review of project plans, application for permit, draft report review or other business required under the Antiquities Code, the applicant may proceed without further reference to the committee.”

SECTION 10. Section 8.02, State Purchasing and General Services Act (Article 601b, Vernon’s Texas Civil Statutes) is amended by adding Subsection (e) to read as follows:

“(e) As part of the state agency’s annual inventory under Subsection (f) of Section 8.03 of this Act, each agency shall furnish to the commission information listing the identification and age of buildings that were acquired by the agency since the preceding annual inventory that are at least 45 years old on the date of the inventory or that are possessed by the agency and have become 45 years old since the preceding annual inventory and shall furnish a photograph of each of those buildings. The commission shall give this information and the photographs to the Antiquities Committee.”

SECTION 11. In each state agency’s first annual inventory under Subsection (f), Section 8.03, State Purchasing and General Services Act (Article 601b, Vernon’s

Texas Civil Statutes), made on or after the effective date of this Act, the agency shall furnish to the State Purchasing and General Services Commission information listing the identification and age of each building it possesses that is at least 45 years old on the date of that inventory and shall furnish a photograph of each of those buildings. The commission shall give that information and the photographs to the Antiquities Committee.

SECTION 12. Section 3a, Antiquities Code of Texas (Article 6145-9, Vernon's Texas Civil Statutes), as added by Section 2.079, Chapter 735, Acts of the 65th Legislature, Regular Session, 1977 is repealed.

SECTION 13. As soon as possible after the effective date of this Act, the governor shall appoint to the committee a professional museum director of a major, state-funded museum that has significant research facilities. The appointee shall serve a term expiring January 31, 1985, when the governor may make new appointments of citizen members of the committee.

SECTION 14. The change in law made by this Act in the terms of a contract or permit issued under Section 191.053 or 191.054, Natural Resources Code, applies only to a contract executed or permit issued on or after the effective date of this Act. A contract executed or permit issued before the effective date of this Act is subject to the terms provided by law at the time the contract was executed or permit issued, and the former law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 1983.

SECTION 16. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Brown moved to concur in the House amendment.

The motion prevailed.

#### RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

#### SENATE BILL 1370 WITH HOUSE AMENDMENT

Senator Farabee called **S.B. 1370** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.  
Floor Amendment No. 1 - A. Hill

Amend **S.B. 1370** by striking SECTION 3 and renumbering the existing SECTION 4. as SECTION 3.

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent: Edwards, Lyon, Parmer, Santiesteban, Washington.

#### SENATE BILL 964 WITH HOUSE AMENDMENTS

Senator McFarland called **S.B. 964** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

## Floor Amendment No. 1 - Blanton

Amend SECTION 1 of S.B. 964 by inserting at the end of quoted Sec. 109.33(b) the following:

For any permit or license covering a premise where minors are prohibited from entering the premises under Sec. 109.53, the measurement of the distance between the premises and a public school shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

## Floor Amendment No. 2 - Blanton

Amend SECTION 1 of S.B. 964 by inserting at the end of quoted Sec. 109.33(c) the following:

This subsection (c) does not apply to a permit or license covering a premise where minors are prohibited from entering the premises under Sec. 109.53.

The amendments were read.

Senator McFarland moved to concur in the House amendments.

The motion prevailed.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 28, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**H.B. 1771**, Relating to the use of live animals as a lure in dog race training or in dog coursing on a racetrack.

**H.B. 973**, Relating to reimbursement of school district employees for damaged personal property.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**SENATE BILL 1335 WITH HOUSE AMENDMENT**

Senator Truan called S.B. 1335 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Armbrister

Substitute the following for S.B. 1335:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the creation of the County Court at Law No. 4 of Nueces County.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. CREATION. The County Court at Law No. 4 of Nueces County is created on the date determined under Section 11 of this Act.

SECTION 2. JURISDICTION. (a) The court created by this Act has the same jurisdiction over all causes and proceedings, civil, criminal, and probate,

original and appellate, including eminent domain proceedings, prescribed by law for the County Courts at Law Nos. 1, 2, and 3 of Nueces County.

(b) The judge of the court created by this Act may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. The judge of the court may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county.

(c) The County Court at Law No. 4 of Nueces County has concurrent jurisdiction with the district courts in eminent domain cases, as provided by general law, and in civil cases in which the matter in controversy exceeds \$500 and does not exceed \$20,000, exclusive of interest.

**SECTION 3. COUNTY COURT.** The county court has concurrently with the court created by this Act and the other county courts at law in Nueces County the general jurisdiction of a probate court. The county court has no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the county judge shall be exercised and retained by the judge of the county court, except as provided by this Act or otherwise provided by law.

**SECTION 4. TERMS.** The terms of the court created by this Act are the same as those of the other county courts at law of Nueces County.

**SECTION 5. JUDGE.** (a) The judge of the court created by this Act must be a resident of and qualified voter in Nueces County. He must be a licensed attorney in this state, who has been actively engaged in the practice of law for at least five years immediately preceding his election or appointment.

(b) At the first general election at which county court at law judges are regularly elected after creation of the court, the qualified voters of the county shall elect a judge of the court created by this Act for a four-year term. Every four years thereafter, the judge shall be elected for a regular four-year term as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) The commissioners court shall appoint a person to fill a vacancy occurring in the office of the judge of the County Court at Law No. 4. The appointee holds office until the next general election and until his successor is elected and has qualified.

(d) The judge of County Court at Law No. 4 shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(e) The judge of the County Court at Law No. 4 is entitled to receive an annual salary in an amount equal to \$1,000 less than the salary paid by the state to a district judge exercising jurisdiction in Nueces County. The salary shall be paid in the same manner and from the same fund as prescribed by law for payment of the salary of the county judge. The judge of the County Court at Law No. 4 shall assess the fees prescribed by law for county judges. The clerk of the court shall collect the fees and pay them into the county treasury. Fees may not be paid to the judge.

(f) If the regular judge of County Court at Law No. 4 is absent or is from any cause disabled or disqualified from presiding, a special judge may be appointed by the commissioners court. The person appointed must be recommended by the regular judge of the county court at law, or, if the judge is unable for any reason to recommend a person, by the board of directors of the Nueces County Bar Association. A special judge is entitled to the same rate of compensation as the regular judge. A special judge has all the powers, duties, and immunities of the regular judge.

**SECTION 6. COURT OFFICIALS AND PERSONNEL.** (a) The county attorney, county clerk, and sheriff of Nueces County shall serve as county attorney, clerk, and sheriff, respectively, for the court created by this Act. The commissioners

court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court. Those officials serving shall perform the duties and are entitled to the compensation, fees, and allowances prescribed for their respective offices in Nueces County.

(b) The judge of County Court at Law No. 4 may appoint an official shorthand reporter. The reporter serves at the pleasure of the judge and is entitled to the compensation fixed for the shorthand reporters for the other county courts at law in Nueces County.

**SECTION 7. TRANSFER OF CASES; EXCHANGE OF BENCHES.** (a) With the consent of the judge of the court to which transfer is to be made, the judge of any of the county courts at law in Nueces County may transfer any case, action, or proceeding from his court to either of the other courts by the entry of an order to that effect upon the docket. The court to which the case, action, or proceeding is transferred has full power and authority to hear and determine the matter in the same manner and with the same legal effect as if the case had been originally docketed in his court.

(b) In cases transferred as provided by this section, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases and all bonds and recognizances before taken in the cases are valid and binding as though originally issued out of the court to which the transfer is made.

(c) The judges of the county courts at law in Nueces County may exchange benches from time to time and hear and determine any case, action, or proceeding in any of the other county courts at law in the county in the same manner and with the same legal effect as if the matter were originally docketed in the court of the judge hearing it. The judge of any of the courts may issue restraining orders, injunctions, and other extraordinary writs returnable to any other of the judges or courts. Any of the judges may hear and determine preliminary matters with respect to cases, actions, or proceedings pending in the other courts. Every judgment and order shall be entered in the minutes of the court in which the case is pending.

**SECTION 8. PRACTICE; JURIES.** (a) Practice in County Court at Law No. 4 shall conform to that prescribed by general law for county courts.

(b) The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the court created by this Act. Juries summoned for the county court or any of the county courts at law in Nueces County, by order of the judge of the court in which they are summoned, may be transferred to any of the other courts for service in that court and may be used as if summoned for the court to which they are transferred.

**SECTION 9. FACILITIES.** The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

**SECTION 10. SEAL.** The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 4 of Nueces County."

**SECTION 11. DATE OF CREATION.** The County Court at Law No. 4 of Nueces County is created on January 1, 1986, or on an earlier date determined by the commissioners court by an order entered in its minutes.

**SECTION 12. INITIAL APPOINTMENT OF JUDGE.** The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge as provided by Section 5(c) of this Act. The appointee must have the qualifications required of the regular judge.

SECTION 13. INITIAL TRANSFER OF CASES. As soon as practicable following creation of the court, the county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the other county courts at law in the county and shall transfer those matters to the docket of the court created by this Act. Thereafter, as new cases are filed with the county clerk, the clerk shall equalize the dockets of the county courts at law, consistent with the docketing preferences assigned by law for the other county courts at law.

SECTION 14. CREATION OF COURT IN UNIFORM ACT. If H.B. 36 or S.B. 457, Acts of the 68th Legislature, Regular Session, 1983 (enacting a uniform statutory court act), becomes law and creates the Circuit Court No. 4 of Nueces County, the uniform act governs that court, and this Act has no effect.

SECTION 15. EFFECTIVE DATE. This Act takes effect September 1, 1983.

SECTION 16. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Truan moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent: Edwards, Lyon, Parmer, Santiesteban, Washington.

#### SENATE BILL 706 WITH HOUSE AMENDMENT

Senator Harris called S.B. 706 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Gavin

Substitute the following for S.B. 706:

#### A BILL TO BE ENTITLED AN ACT

relating to the licensing of certain agents of legal reserve life insurance companies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 213, Acts of the 54th Legislature, 1955 (Article 21.07-1, Vernon's Texas Insurance Code), is amended by adding Section 16 to read as follows:

Sec. 16. ACCIDENT AND HEALTH INSURANCE AGENTS. (a) In this section, "accident and health insurance agent" means any person or corporation that is an authorized agent of a legal reserve life insurance company and who acts as such agent only in the solicitation of, negotiation for, procurement of, or collection of premiums on an accident and health insurance contract with a legal reserve life insurance company, but does not include:

(1) a regular salaried officer or employee of a legal reserve life insurance company, or of a licensed life or accident and health insurance agent, who devotes substantially all of his or her time to activities other than the solicitation of applications for insurance contracts and receives no commission or other compensation directly dependent upon the business obtained, and who does not solicit or accept from the public applications for insurance contracts;

(2) employers or their officers or employees, or the trustees of any employee benefit plan, to the extent that those employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits



involving the use of insurance issued by a legal reserve life insurance company, provided that those employers, officers, employees, or trustees are not in any manner compensated, directly or indirectly, by the legal reserve life insurance company issuing the insurance contracts;

(3) banks or their officers and employees to the extent that the banks, or their officers, and employees collect and remit premiums by charging the premiums against the account of a depositor on the orders of the depositor;

(4) a ticket-selling agent of a public carrier with respect to accident and health insurance tickets covering risks of travel; or

(5) an agent selling credit health and accident insurance issued exclusively in connection with credit transactions, or acting as agent or solicitor for health and accident insurance under a license issued under either Article 21.07, Article 21.07-1 or Article 21.14 of the Insurance Code.

(b) The State Board of Insurance may issue a license to a person or a corporation to act only as an accident and health insurance agent for a legal reserve life insurance company as provided by this section.

(c) Each applicant for a license under this section who desires to act as an accident and health insurance agent within this state shall submit to a personal written examination prescribed and administered in the English or Spanish language by the State Board of Insurance to determine the applicant's competency with respect to accident and health insurance and familiarity with the pertinent provisions of the health and accident insurance laws of this state. Except as provided by Subsection (d) of this section, each applicant must pass the examination to the satisfaction of the State Board of Insurance.

(d) A written examination is not required of:

(1) an applicant for license under this Section 16 if the applicant has previously been licensed and currently holds on the effective date of this section a valid license issued by the State Board of Insurance under either Article 21.07, Article 21.07-1 or Article 21.14 of this Code;

(2) an applicant whose license expires less than one year before the date of application, and who may, in the discretion of the State Board of Insurance, be issued a license without written examination, provided the prior expired license granted the applicant the right to act as an agent for accident and health insurance; or

(3) an applicant that is a corporation; provided, however, that a corporation may be licensed hereunder only if it otherwise complies with the provisions of Section 4(d) of this Article, but in the application of such section to such compensation hereunder, any requirement pertaining to or reference therein to "life insurance" shall be changed and limited to "health and accident insurance" only as is intended by the terms of the Section 16.

(e) Within 60 days after the effective date of this section, the State Board of Insurance shall establish reasonable rules relating to the scope, type, and conduct of the written examination to be required of an applicant hereunder and the times and the places in this state where examinations will be held. Applicants also may take the examinations at least once in each week at the office of the State Board of Insurance.

(f) The rules adopted by the Board shall designate textbooks, manuals, and other materials to be studied by applicants in preparation for an examination under this section. The textbooks, manuals, and other materials may consist of matter available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the State Board of Insurance and distributed to applicants on request and payment of the reasonable cost. All examination questions shall be prepared from the contents of textbooks, manuals, and other materials designated or prepared by the State Board of Insurance pursuant to this

section. The questions on the examination must be limited to and be substantially similar to the questions relating to accident and health insurance included in the written examination prescribed by the State Board of Insurance under other sections of this Code.

(g) The State Board of Insurance shall charge each applicant a fee not to exceed \$25 for the privilege of taking the written examination, and the fee may not be returned under any circumstance other than for failure to appear and take the examination after the applicant has given at least 24 hours' notice of an emergency situation to the State Board of Insurance and received approval of such failure to appear. A new examination fee shall be paid for each subsequent examination.

(h) After the State Board of Insurance determines that an applicant has successfully passed the written examination or is exempt therefrom as provided in (d) above, and the Board has determined the applicant to be of good character and reputation, has been appointed to act as an agent by one or more legal reserve life insurance companies, and has paid a license fee of \$25, the board shall issue a license to such applicant authorizing the applicant to act as an accident and health insurance agent for the appointing insurance carrier.

(i) The State Board of Insurance may appoint an advisory committee to make recommendations to the State Board of Insurance relating to the scope, type, and conduct of written examinations. The advisory committee must be composed of individuals experienced in the accident and health insurance business, and may include company officers, managers and employees, general managers, and licensed agents. The members of the advisory committee shall serve without pay.

(j) Sections 8, 9, 10, 11, 12, 13 and 14 of this Article shall apply to accident and health insurance agents of a legal reserve life insurance company licensed under this Section, but in the application of such sections to such agents any requirements, conditions or references therein to "life insurance" shall be changed and limited to "health and accident" insurance only as is intended by the provisions of this section.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed.

#### SENATE BILL 369 WITH HOUSE AMENDMENT

Senator Willilams called S.B. 369 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.  
Floor Amendment No. 1 - D. Lee

Amend S.B. 369, page 1 line 19 by striking the words "county or city" and substituting the word "department."

Amend line 20 by striking the words "county or city" and substituting the word "department."

Amend line 21 by striking "department shall appraise the property" and substituting "county or city may be authorized to appraise the property."

The amendment was read.

Senator Williams moved to concur in the House amendment.

The motion prevailed.

### RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

(Senator Blake in Chair)

### SENATE BILL 651 WITH HOUSE AMENDMENTS

Senator Glasgow called **S.B. 651** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### Floor Amendment No. 1 - Blanton

Amend **S.B. 651** as follows:

Page 7, line 17, strike \$5 and substitute \$20;

Page 7, line 19, strike \$5 and substitute \$20, strike \$20 and substitute \$200;

Page 7, line 21, strike \$20 and substitute \$200, strike \$200 and substitute \$750;

Page 7, line 23, strike \$200 and substitute \$750, strike \$10,000 and substitute \$20,000;

Page 7, line 25, strike \$10,000 and substitute \$20,000.

#### Floor Amendment No. 2 - Blanton

Amend **S.B. 651** as follows:

Page 10, line 18, strike \$5 and substitute \$20;

Page 10, line 20, strike \$5 and substitute \$20;

Page 10, line 21, strike \$20 and substitute \$200;

Page 10, line 22, strike \$5 and substitute \$20;

Page 10, line 25, strike \$20 and substitute \$200, strike \$200 and substitute \$750;

Page 11, line 1, strike \$200 and substitute \$750;

Page 11, line 2, strike \$10,000 and substitute \$20,000;

Page 11, line 4, strike \$10,000 and substitute \$20,000;

Page 11, line 7, strike \$200 and substitute \$750;

Page 11, line 15, strike \$10,000 and substitute \$20,000.

The amendments were read.

Senator Glasgow moved to concur in the House amendments.

The motion prevailed.

### SENATE BILL 417 WITH HOUSE AMENDMENT

Senator Doggett called **S.B. 417** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.  
Committee Amendment No. 1 - Keller

Amend S.B. 417 on page 1, SECTION 1, line 17 by striking the word "or" after the word "installer"; amend line 18 on the same page and section by adding the phrase "or private security consultant" after the word "officer"; amend line 22 of the same page and section by striking the word "or" after the word "installer" and adding the phrase "or private security consultant" after the word "officer."

Amend page 2, SECTION 1, line 3 by inserting the following paragraph: "Private security consultants are persons who offer advice or services in the field of private security."

Amend page 2, SECTION 2, line 20 by adding the phrase "for private investigators, managers, [and] branch office managers, and alarm system installers" after the word "fee". Insert between lines 22 and 23 of the same page and section by inserting "Registration fee for consultants 50."

Amend page 3, SECTION 3, line 9 by striking the word "or" after the word "installer," and before the word "noncommissioned".

Amend line 10 of the same page and section by adding "or private security consultant" after the word "officer" and before the word "must".

Amend line 21 of the same page and section by striking the word "or" after the word "installer," and before the word "noncommissioned" and insert "or private security consultant" after the word "officer."

Amend page 4, Section 33, line 19 by adding "and applicant's consulting firm" after the word "employer".

Amend page 6, SECTION 4, line 1 by striking the word "or" after the word "installer" and before the word "noncommissioned".

Amend the same page and section, line 2 by adding "or private security consultant" after the word "officer" and before the word "may".

The amendment was read.

Senator Doggett moved to concur in the House amendment.

The motion prevailed.

### RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

### SENATE BILL 117 WITH HOUSE AMENDMENTS

Senator Doggett called S.B. 117 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Hinojosa

Amend S.B. 117 as follows:

- (1) On page 4, line 18, strike "(c) and (d)" and substitute "(b) and (c)"
- (2) On page 6, line 3, strike "(e)" and substitute "(f)"
- (3) On page 6, line 13, strike "(h)" and substitute "(i)"

Floor Amendment No. 2 - Laney

Amend S.B. 117 on Third Reading as follows:

- (1) On page 8, line 22, strike "NONRENEWAL OR".
- (2) On page 8, lines 23-25, strike "decides not to renew an expired contract with an entity that receives block grant funds from the agency, or if the agency".
- (3) On page 9, line 4, strike "the contract expires or".
- (4) On page 9, line 6, strike "nonrenewal of the contract or".
- (5) On page 10, lines 1 and 2, strike "that the nonrenewal of the contract or".
- (6) On page 10, lines 10 and 11, strike "the contract should be renewed or".
- (7) On page 10, line 21, strike "NONRENEWAL OR".
- (8) On page 10, lines 22-24, strike "decides not to renew an expired contract with an entity that receives block grant funds from the agency, or if the agency".
- (9) On page 11, line 3, strike "the contract expires or".
- (10) On page 11, line 5, strike "nonrenewal of the contract or".

Floor Amendment No. 3 - Berlanga

Amend S.B. 117 on page 13 by inserting new Sections 17 and 18 to read as follows, and renumbering present Sections 17 and 18 as Sections 19 and 20:

**SECTION 17. PRIMARY CARE BLOCK GRANT.** If the Texas Department of Health otherwise fulfills the requirements of federal law then the Department:

(a) is designated to administer the primary care block grant and receive the primary care block grant funds on behalf of the State of Texas;

(b) is authorized to provide for the delivery of primary and supplemental health services to the medically underserved areas and populations of the state through community health centers which meet the requirements of Title 42, Section 254(c)(3)(A-K), U.S.C.A.;

(c) is authorized to adopt and issue such rules as are necessary, pursuant to the applicable provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes);

(d) may expend federal primary care block grant monies and state funds specifically appropriated to the legislature to match funds received as a result of the state accepting the primary care block grant;

(e) is authorized to make grants, advance funds, and enter into contracts with community health centers which meet the requirements of Title 42, Section 254(c)(3)(A-K), U.S.C.A., to provide primary and supplemental health services to medically underserved areas and populations of the state, as those terms are defined in Title 42, Section 254(c), and to perform other activities necessary to administer the primary care block grant.

**SECTION 18. COMMUNITY HEALTH CENTER ADVISORY COMMITTEE.** (a) The Community Health Center Advisory Committee is established within the Texas Department of Health to advise the Board and the Department.

(b) The committee is composed of 9 members who are appointed by the Board. Members must have the following qualifications:

(1) three must be executive directors of community health center services appointed from nominations received from a statewide association of providers of community health center services;

(2) two must be health care providers from community health centers;

(3) two must be members of community health center governing boards, at least one of whom must be a user of the community health center's services;

(4) two must be consumers who have none of the qualifications of the other members.

(c) Members are appointed for staggered terms of six years, with three members' terms expiring January 1 of each even-numbered year. If a vacancy

occurs on the committee, the board shall appoint a person to serve the unexpired portion of the term.

(d) The committee may adopt rules for the conduct of its activities and may elect a chairperson from among its members. The committee shall meet at least three times each year or at the call of the chair. The members shall serve without compensation. Within the limits of funds appropriated to the Department for this purpose, a member of the committee is entitled to receive \$50 per each committee meeting the member attends and the per diem and travel allowance authorized by the General Appropriations Act for the state employees.

(e) Prior to the Texas Department of Health applying for and receiving any primary care block grant monies, the Committee created by this section must be appointed and adopt a plan for submission to and approval by the Board which: outlines the need for primary and supplemental health services in Texas; establishes procedures for delivery and assessment of quality health services that are non-duplicative, cost efficient and responsive to the health care needs of medically underserved Texans; details the appropriate role of the department in the administration and delivery of these services; and, identifies program costs and possible duplication and overlap between state participating local health departments, regional health departments and community health centers.

(f) The Committee shall, within one year of its appointment and annually thereafter, provide the Board and the legislature with a report on its findings and recommendations. Such report may include recommendations for appropriate state legislation, rules and regulations, and other actions which would enhance the availability, appropriate utilization, and coordination of the delivery and/or administration of primary and supplemental health services to underserved areas and populations within the state.

(g) Three initial members of the Committee shall serve for terms expiring January 1, 1986, three initial members shall serve for terms expiring January 1, 1988, and three initial members shall serve for term expiring January 1, 1990. The initial members shall draw lots to determine the lengths of their terms, with a provision that, for the sake of continuity, lots will be redrawn in the event that any category of committee membership would have all of its members' terms expiring at the same time. The board shall make the initial appointments effective no later than January 1, 1984.

The amendments were read.

Senator Doggett moved to concur in the House amendments.

The motion prevailed.

#### RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

#### SENATE BILL 762 WITH HOUSE AMENDMENT

Senator Doggett called **S.B. 762** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.  
Floor Amendment No. 1 - G. Hill

Amend **S.B. 762** on third reading as follows:

- (1) On page 1, line 17, insert "or" after the semicolon.
- (2) Strike "; or" on page 1, line 19 and substitute a period.

(3) Strike lines 20 and 21 on page 1.

The amendment was read.

Senator Doggett moved to concur in the House amendment.

The motion prevailed.

#### HOUSE BILL 287 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 287**, Relating to designating United States Highway 83 as the Texas Vietnam Veterans Memorial Highway.

The bill was read second time and was passed to third reading.

#### HOUSE BILL 287 ON THIRD READING

Senator Truan moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 287** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent: Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent: Santiesteban.

#### HOUSE BILL 141 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 141**, Relating to the purchase of newspapers for use in public schools.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Strike Sec. 21.918 of SECTION 1 of the printed version of **H.B. 141** and substitute in lieu thereof the following:

Sec. 21.918. PURCHASING OF NEWSPAPERS. From funds appropriated, the State Board of Education may allocate money to each school district for the purpose of purchasing newspapers for use in high schools of the district. The board shall allocate the funds according to a formula developed by the commissioner of education and approved by the board.

The amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

**HOUSE BILL 141 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 141 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent: Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent: Santiesteban.

**HOUSE BILL 2427 ON SECOND READING**

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2427**, Relating to creation, administration, powers, duties, operations, and financing of the Montgomery County Flood Control District; providing a civil penalty.

The bill was read second time.

Senator Caperton offered the following committee amendment to the bill:

Amend **H.B. 2427**, by inserting the following language on Page 31, line 20 after the word "Act,":

then all sums due any transit authority,

The committee amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Amend **H.B. 2427** by placing a period after the word "District" in line 61 on page 1 of the printed bill and striking the rest of line 61 and all of lines 62 and 63.

The amendment was read and was adopted.

**RECORD OF VOTE**

Senator Blake asked to be recorded as voting "Nay" on the adoption of the amendment.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent: Santiesteban.

**HOUSE BILL 2427 ON THIRD READING**

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2427** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.



Nays: Washington.

Absent: Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

### MESSAGE FROM THE HOUSE

House Chamber  
May 28, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has refused to concur in Senate amendments to **H.B. 1015** and has requested the appointment of a Conference Committee to consider the differences between the two houses. House Conferees: Messer, Chairman; Pierce, Eikenberg, Polumbo and Luna.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

### COMMITTEE SUBSTITUTE HOUSE BILL 1444 ON SECOND READING

Senator Mauzy asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**C.S.H.B. 1444**, Relating to the assignment of judges by the presiding judges of administrative judicial districts.

There was objection.

Senator Mauzy then moved to suspend the regular order of business and take up **C.S.H.B. 1444** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Blake, Brooks, Doggett, Edwards, Harris, Henderson, Kothmann, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Caperton, Farabee, Glasgow, Howard, Jones, Leedom, Montford, Sarpalius, Sims.

The bill was read second time.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1444** by deleting Section 2 of the bill and renumbering the subsequent section.

The amendment was read.

On motion of Senator Mauzy, the amendment was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Blake, Brooks, Doggett, Edwards, Kothmann, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Caperton, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, Montford, Sarpalius, Sims.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.H.B. 1444** by adding the word “contested” between the words “any” and “case” on page 2, line 16.

The amendment was read and was adopted.

Senator McFarland offered the following amendment to the bill:

Floor Amendment No. 3

Amend **H.B. 1444**, Section 2, Subsection 5d (a) to read as follows:

At such time as a judge is assigned under the provisions of this act, the presiding judge shall, if reasonable practicable and time permits same, give notice of such assignment to each attorney representing any party to any case which is to be heard, in whole or in part, before such assigned judge.

The amendment was read and was adopted.

#### VOTE ON ADOPTION OF AMENDMENTS RECONSIDERED

On motion of Senator McFarland and by unanimous consent, the vote by which Floor Amendments No. 2 and 3 were adopted was reconsidered.

Question - Shall Floor Amendments No. 2 and 3 be adopted?

On motion of Senator McFarland and by unanimous consent, Floor Amendment No. 3 was withdrawn.

On motion of Senator Glasgow and by unanimous consent, Floor Amendment No. 2 was withdrawn.

Senator McFarland offered the following amendment to the bill:

Floor Amendment No. 4

Amend **H.B. 1444**, Section 2, Subsection 5d (a) to read as follows:

At such time as a judge is assigned under the provisions of this Act, the presiding judge shall, if reasonable practicable and time permits same, give notice of such assignment to each attorney representing any party to any contested case which is to be heard, in whole or part, before such assigned judge.

The amendment was read and was adopted.

On motion of Senator Mauzy and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### RECORD OF VOTES

Senators Brown and Glasgow asked to be recorded as voting “Nay” on the passage of the bill to third reading.

**MOTION TO PLACE COMMITTEE SUBSTITUTE  
HOUSE BILL 1444 ON THIRD READING**

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 1444 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 20, Nays 11. (Not receiving two-thirds vote of the Members present)

Yeas: Blake, Brooks, Doggett, Edwards, Harris, Henderson, Kothmann, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Brown, Caperton, Farabee, Glasgow, Howard, Jones, Leedom, Montford, Sarpalius, Sims, Washington.

**CONFERENCE COMMITTEE ON HOUSE BILL 1015**

Senator Lyon called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 1015 and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on H.B. 1015 before appointment.

Senator Brooks moved that the Senate conferees be instructed to uphold the position of the Senate on removal of Section 12.

The motion prevailed by the following vote: Yeas 16, Nays 14.

Yeas: Brooks, Doggett, Edwards, Glasgow, Henderson, Kothmann, Mauzy, Parker, Santiesteban, Sims, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Blake, Brown, Caperton, Farabee, Harris, Howard, Jones, Lyon, McFarland, Montford, Parmer, Sarpalius, Sharp, Traeger.

Absent: Leedom.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lyon, Chairman; Traeger, Parmer, Sharp and Brooks.

**HOUSE BILL 2445 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2445**, Relating to the creation of the County Court of Jefferson County at Law No. 4.

The bill was read second time and was passed to third reading.

**HOUSE BILL 2445 ON THIRD READING**

Senator Parker moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 2445 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### HOUSE BILL 2134 ON THIRD READING

The Presiding Officer laid before the Senate on its third reading and final passage:

**H.B. 2134**, Relating to the calculation of the effective tax rate for a taxing unit.

Question - Shall the bill be again finally passed?

Senator Jones offered the following amendment to the bill:

Amend **H.B. 2134** by striking Sections 2 and 3 and inserting the following:

SECTION 2. Subsection (a), Section 5.10, Tax Code, is amended to read as follows:

(a) The board shall conduct a biennial study [~~annual studies~~] in each appraisal district to determine for each odd-numbered year the degree of uniformity of and the weighted average level of appraisals by the appraisal district within each major kind of property. The board shall publish the findings of the study before the end of the even-numbered year following the year for which the study is conducted [~~studies~~]. In conducting the study [~~studies~~], the board shall use appropriate standard statistical analysis techniques to compute measures of central tendency and average dispersion.

SECTION 3. This Act takes effect January 1, 1984. Section 26.04, Tax Code, as amended by this Act, applies to the calculation of the tax rate for the 1984 tax year and each subsequent tax year. The tax rate for a tax year prior to 1984 is covered by the law in effect when the tax year began, and the former law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by the following vote: Yeas 31, Nays 0.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was again finally passed by the following vote: Yeas 31, Nays 0.

### SENATE CONCURRENT RESOLUTION 140

Senator Jones offered the following resolution:

WHEREAS, **H.B. 1473** has passed the Senate and the House of Representatives and is now in the Office of the Governor; and

WHEREAS, A clerical correction is necessary to clarify a provision of the bill; now, therefore, be it

RESOLVED by the Senate of the 68th Legislature, the House of Representatives concurring, That the Governor be respectfully requested to return **H.B. 1473** to the House of Representatives; and be it further

RESOLVED, That the actions of the President of the Senate, and the Speaker of the House in originally signing **H.B. 1473** be declared null and void, and that the presiding officers of the House and Senate be authorized to remove their signatures from the enrolled bill; and be it further

RESOLVED, That the Chief Clerk of the House of Representatives be directed to correct **H.B. 1473** as follows: by adding the following section and renumbering subsequent sections:

"SECTION 32. In addition to the salary paid by the State, the Commissioners Court of Taylor County may pay each judge of the district courts having jurisdiction in Taylor County for services rendered to the county and for performing administrative duties a sum to be set by the Commissioners Court and to be paid in equal monthly installments from funds of the county."

The resolution was read.

On motion of Senator Jones and by unanimous consent, the resolution was considered immediately and was adopted.

#### HOUSE BILL 1157 ON SECOND READING

On motion of Senator Sharp and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1157**, Relating to the authority of a commissioners court to permit the revision of a subdivision plat.

The bill was read second time.

Senator Sharp offered the following amendment to the bill:

Amend **H.B. 1157** by inserting the following language after the last sentence of subsection (b) of Section 5:

"Provided, however, that upon the receipt of written objection to cancellation by the owners of ten (10) percent of the land area affected by the application, the grant of an order of cancellation shall be at the discretion of the commissioners' court."

The amendment was read and was adopted.

On motion of Senator Sharp and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### HOUSE BILL 1157 ON THIRD READING

Senator Sharp moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1157** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### HOUSE BILL 788 ON SECOND READING

On motion of Senator McFarland and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 788**, Relating to work credit for determining salary or retirement benefits of a vocational teacher.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Amend H.B. 788 by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter E, Chapter 33, Title 110B, Revised Statutes, is amended by adding Section 33.404 to read as follows:

Sec. 33.404. VOCATIONAL WORK EXPERIENCE. (a) A member employed by a public school as a vocational teacher may, before the third anniversary of the date the member's employment as a vocational teacher began, establish equivalent membership service credit for vocational work experience that is creditable in the retirement system.

(b) Vocational work experience creditable in the retirement system is work experience of a type for which the member has received salary enhancement under Section 16.056(b), Texas Education Code. If a member applies for service credit under this section for a year of work experience that has not actually been used for salary enhancement, the service is not creditable unless the commissioner of education certifies to the retirement system that the service could be used under Section 16.056(b), Texas Education Code, for salary enhancement, if the person had not already received the maximum amount of enhancement permitted under that section.

(c) For each year of service credit that a member desires to purchase under this section, the member must deposit with the retirement system an amount equal to the sum of:

(1) 15.15 percent of the member's highest rate of annual compensation as of the date of deposit; plus

(2) a fee of eight percent of the required contribution, compounded annually, from the date of first eligibility to the date of deposit.

(d) A member may not establish more than five years of service credit under this section.

(e) The retirement system shall grant a member one year of equivalent membership service credit for each year of creditable vocational work experience for which deposits have been made as required by this section. The retirement system may not use credit granted under this section in computing service or disability retirement benefits until the member has at least 10 years of service credit for actual service in public schools.

(f) If credit established under this section is not used in determining benefits, all deposits made under this section are refundable to the member or, if applicable, the member's beneficiary.

SECTION 2. Section 35.304(a), Title 110B, Revised Statutes, is amended to read as follows:

(a) The retirement system shall deposit in a member's individual account in the member savings account:

(1) the amount of contributions to the retirement system that is deducted from the member's compensation;

(2) the portion of a deposit made on or after resumption of membership that represents the amount of retirement benefits received;

(3) the portion of a deposit to reinstate service credit previously canceled that represents the amount withdrawn or refunded;

(4) the portion of a deposit to establish membership service credit previously waived that is required by Section 33.202(b)(1) of this subtitle;

(5) the portion of a deposit to establish membership service credit for service performed after retirement that is required by Section 33.502(c)(3) or 33.502(c)(5) of this subtitle;

(6) the portion of a deposit to establish military service credit required by Section 33.302(c) of this subtitle;

(7) the portion of a deposit to establish equivalent membership service credit required by Section 33.401(d), 33.402(e)(1), 33.402(e)(2), 33.403(b)(1), [or] 33.403(b)(2), or 33.404(c)(1) of this subtitle; and

(8) interest earned on money in the account as provided by Subsections (b) and (c) of this section and Section 35.310(b)(1) of this subtitle.

SECTION 3. Section 35.305, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 35.305. STATE CONTRIBUTION ACCOUNT. The retirement system shall deposit in the state contribution account:

(1) all state contributions to the retirement system required by Section 35.404 of this subtitle;

(2) amounts from the interest account as provided by Section 35.310(b)(5) of this subtitle;

(3) retirement annuities waived or forfeited in accordance with Section 32.102(b) or 34.004 of this subtitle;

(4) fees collected under Section 35.403(h) of this subtitle;

(5) fees and interest for reinstatement of service credit or establishment of membership service credit as provided by Section 33.202, 33.501, or 33.502 of this subtitle;

(6) the portion of a deposit required by Section 33.302 of this subtitle to establish military service credit that represents a fee; [and]

(7) the portion of a deposit required by Section 33.401(e) of this subtitle to establish out-of-state service credit that represents a fee; and

(8) the portion of a deposit required by Section 33.404(c)(2) of this subtitle to establish vocational work experience service credit that represents a fee.

SECTION 4. This Act takes effect September 1, 1983.

SECTION 5. A person whose employment as a public school vocational teacher began before the effective date of this Act is not subject to the deadline for establishing credit under Section 33.404, Title 110B, Revised Statutes, as added by this Act, that is provided by Subsection (a) of that section and may establish the credit under the terms of that section at any time before September 1, 1986.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read and was adopted.

On motion of Senator McFarland and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### HOUSE BILL 788 ON THIRD READING

Senator McFarland moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 788 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE HOUSE BILL 1299 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1299**, Relating to the establishment of a pilot job training and work experience program for persons receiving financial assistance under the Aid to Families with Dependent Children program.

The bill was read second time.

Senator Washington offered the following amendment to the bill:

Amend **H.B. 1299** by adding the word "voluntary" between the words "a" and "job" in Section 1 of the bill, line 17 of page 1 of **H.B. 1299**.

The amendment was read and was adopted.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

**COMMITTEE SUBSTITUTE HOUSE BILL 1299 ON THIRD READING**

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1299** be placed on its third reading and final passage.

**POINT OF ORDER**

Senator Doggett raised the Point of Order that Senator Brown's motion to suspend the Three-Day Rule was not a debatable motion.

The Presiding Officer (Senator Blake in Chair) sustained the Point of Order.

Question - Shall the Three-Day Rule be suspended?

**RECESS**

On motion of Senator Mauzy, the Senate at 11:58 o'clock a.m. took recess until 2:00 o'clock p.m. today.

**AFTER RECESS**

The Senate met at 2:00 o'clock p.m. and was called to order by Senator Harris.

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 255**

Senator Vale submitted the following Conference Committee Report:

Austin, Texas  
May 28, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 255** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



VALE  
HOWARD  
TRAEGER  
HARRIS  
PARMER

On the part of the Senate

STANISWALIS  
D. LEE  
SIMPSON  
VALLES

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the authority of an insurer to designate a particular practitioner or practitioners of the healing arts in a policy of accident and sickness insurance; amending Subsection (B), Section 2, Chapter 397, Acts of the 54th Legislature, 1955, as added (Article 3.70-2, Vernon's Texas Insurance Code).

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Subsection (B), Section 2, Chapter 397, Acts of the 54th Legislature, 1955, as added (Article 3.70-2, Vernon's Texas Insurance Code), is amended to read as follows:

"(B) No policy of accident and sickness insurance shall make benefits contingent upon treatment or examination by a particular practitioner or by particular practitioners of the healing arts hereinafter designated unless such policy contains a provision designating the practitioner or practitioners who will be recognized by the insurer and those who will not be recognized by the insurer. Such provision may be located in the 'Exceptions' or 'Exceptions and Reductions' provisions, or elsewhere in the policy, or by endorsement attached to the policy, at the insurer's option. In designating the practitioners who will and will not be recognized, such provision shall use the following terms: Doctor of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of Chiropractic, Doctor of Optometry, Doctor of Podiatry, Doctor in Psychology. For purposes of this Act, such designations shall have the following meanings:

"Doctor of Medicine: One licensed by the Texas State Board of Medical Examiners on the basis of the degree 'Doctor of Medicine';

"Doctor of Osteopathy: One licensed by the Texas State Board of Medical Examiners on the basis of the degree of 'Doctor of Osteopathy';

"Doctor of Dentistry: One licensed by the State Board of Dental Examiners;

"Doctor of Chiropractic: One licensed by the Texas Board of Chiropractic Examiners;

"Doctor of Optometry: One licensed by the Texas State Board of Examiners in Optometry; [and]

"Doctor of Podiatry: One licensed by the State Board of Chiropody Examiners; and

"Doctor in Psychology: One licensed by the Texas State Board of Examiners of Psychologists and certified as a Health Service Provider."

**SECTION 2.** This Act applies to all policies of accident and sickness insurance, including policies issued by companies subject to Chapter 20, Insurance Code, delivered or issued for delivery or renewed, extended, or amended in this state on or after January 1, 1984. With respect to any policy forms approved by the State Board of Insurance prior to the effective date of this Act, an insurer is authorized to achieve compliance with this Act by the use of endorsements or riders provided such endorsements or riders are approved by the State Board of Insurance as being in compliance with this Act and other provisions of the Insurance Code.

**SECTION 3.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 448**

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas  
May 28, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 448** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CAPERTON  
BLAKE  
SARPALIUS  
EDWARDS  
McFARLAND

On the part of the Senate

CRISS  
CLEMONS  
BARTON OF HAYS

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to unemployment compensation benefits and the Texas Employment Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3(f), Texas Unemployment Compensation Act (Article 5221b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) Equal Treatment: Benefits based on services for all employers in employment defined in subsection 19(f) shall be payable in the same amount, on the same terms, and subject to the same conditions; except that:

(1) with respect to services in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be payable based on those services for any week commencing during the period between two (2) successive academic years or terms (or, when an agreement provides instead for a similar period between two (2) regular but not successive terms, during that period) to any individual if the individual performs those services in the first of the academic years (or terms) and if there is a contract or reasonable assurance that the individual will perform services in that capacity for any educational institution in the second of the academic years (or terms);

(2) with respect to services in any other capacity for an educational institution: [~~to other than an institution of higher education~~];

(A) benefits shall not be payable on the basis of those services to any individual for any week which commences during a period between two (2) successive academic years or terms if the individual performs those services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform those services in the second of the academic years or terms; except that

(B) if benefits are denied to any individual for any week under Paragraph (A) of this subdivision and the individual was not offered an opportunity to perform the

services for the educational institution for the second of the academic years or terms, the individual is entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of Paragraph (A); and

(3) with respect to any services described in Paragraphs (1) and (2), benefits shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

SECTION 2. Section 4-A, Texas Unemployment Compensation Act (Article 5221b-2a, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding any other provision of this Act, an otherwise eligible individual may not be denied benefits for any weeks because he is in training approved under Section 236(a)(1), Trade Act of 1974 (Pub. L. No. 93-618), and the individual may not be denied benefits by reason of leaving work to enter that training if the work left is not suitable employment, or because of the application to any week in training of provisions in this Act or in any applicable federal unemployment compensation law relating to availability for work, active search for work, or refusal to accept work. In this subsection "suitable employment" means, with respect to an individual, work which is of a substantially equal or higher skill level than the individual's past adversely affected employment, as that term is used by the Trade Act of 1974, and for which the wages are not less than 80 percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

SECTION 3. Subsection (a), Section 6-A, Texas Unemployment Compensation Act (Article 5221b-4a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Definitions: As used in this Section, unless the context clearly requires otherwise:

(1) "Extended benefit period" means a period which:

(A) begins with the third (3rd) week after [whichever of the following weeks occurs first:

~~[(i) a week for which there is a national "on" indicator, or~~

~~[(ii)] a week for which there is a State "on" indicator; and~~

(B) ends with either of the following weeks, whichever occurs last:

~~(i) the third (3rd) week after the first (1st) week for which there is [both a national "off" indicator and] a State "off" indicator, or~~

~~(ii) the thirteenth (13th) consecutive week of such period;~~

Provided, that no extended benefit period may begin by reason of a State "on" indicator before the fourteenth (14th) week following the end of a prior extended benefit period which was in effect with respect to this State; and

~~[Provided further, that no extended benefit period may begin with a week beginning before January 1, 1972].~~

~~[(2) There is a national "on" indicator for a week if, for the period consisting of that week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and five-tenths percent (4.5%). The rate of insured unemployment, for the purposes of this subsection, shall be determined by the Secretary of Labor by reference to the average monthly covered employment for the first four (4) of the most recent six (6) calendar quarters ending before the close of that period.~~

~~[(3) There is a national "off" indicator for a week if, for the period consisting of that week and the immediately preceding twelve (12) weeks, the rate of insured~~

unemployment (seasonally adjusted) for all states was less than four and five-tenths percent (4.5%). The rate of insured unemployment, for the purposes of this subsection, shall be determined by the Secretary of Labor by reference to the average monthly covered employment for the first four (4) of the most recent six (6) calendar quarters ending before the close of that period.]

(2) [(4)] There is a State "on" indicator for this State for a week if the Commission determines, in accordance with the regulations of the United States Secretary of Labor, that, for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (not seasonally adjusted) under this Act:

(A) equaled or exceeded one hundred and twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding two (2) calendar years, and

(B) equaled or exceeded five percent (5%) [four percent (4%)].

(3) [(5)] There is a State "off" indicator for this State for a week if the Commission determines, in accordance with the regulations of the United States Secretary of Labor, that, for the period consisting of such week and the immediately preceding twelve (12) weeks, either paragraph (A) or (B) of subdivision (2) [(4)] is not satisfied. Provided that [with respect to benefits for weeks of unemployment beginning after December 31, 1977,] the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made under this section as if subdivision (2) [(4)] did not contain paragraph (A) thereof, and as if the figure "five" (5) ["four" (4)] contained in paragraph (B) thereof were "six" (6) ["five" (5)]; except that, notwithstanding any other provision of this Section, any week for which there would otherwise be a State "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a State "off" indicator.

(4) [(6)] "Rate of insured unemployment," for purposes of paragraphs (2) [(4)] and (3) [(5)] of this subsection, means the percentage derived by dividing:

(A) the average weekly number of individuals filing claims for regular compensation in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the Commission on the basis of the Commission's reports to the United States Secretary of Labor, by

(B) the average monthly employment covered under this Act for the first four (4) of the most recent six (6) completed calendar quarters ending before the end of such 13-week period.

(5) [(7)] "Regular benefits" means benefits payable to an individual under this Act or under any other state law (including benefits payable to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85) other than extended benefits.

(6) [(8)] "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85) payable to an individual under the provisions of this Section for benefit periods of unemployment in his eligibility period.

(7) [(9)] "Eligibility period" of an individual means the period consisting of the benefit periods in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any benefit periods thereafter which begin in such period.

(8) [(10)] "Exhaustee" means an individual who, with respect to any benefit period of unemployment in his eligibility period:

(A) has received, prior to such benefit period, all of the regular benefits that were available to him under this Act or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85) in his current benefit year that includes such benefit period;

Provided, that, for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wage credits that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits, or

(B) had a benefit year that expired prior to such benefit period and has no, or insufficient, wage credits on the basis of which he could establish a new benefit year that would include such benefit period; and

(C)(i) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, or such other federal laws as are specified in regulations issued by the United States Secretary of Labor, and

(ii) has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law, he is considered an exhaustee.

(9) [(11)] "State Law" means the unemployment compensation law of any state that is approved by the United States Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954.

SECTION 4. Section 6-A, Texas Unemployment Compensation Act (Article 5221b-4a, Vernon's Texas Civil Statutes), is amended by adding Subsections (i) and (j) to read as follows:

(i) Notwithstanding any other provision of this Act, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances under the Trade Act of 1974 (Pub. L. No. 93-618) within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(j)(1) Cessation of Extended Benefits When Paid Under an Interstate Claim in a State Where Extended Benefit Period Is Not in Effect: Except as provided by Subdivision (2) of this subsection, an individual is not eligible for extended benefits for any week if:

(A) extended benefits are payable for the week under an interstate claim filed in any state under an interstate benefit payment plan; and

(B) no extended benefit period is in effect for the week in that state.

(2) Subdivision (1) of this subsection does not apply with respect to the first two weeks for which extended benefits are payable determined without regard to this subsection under an interstate claim filed under an interstate benefit payment plan to the individual from the extended benefit account established for the individual with respect to the benefit year.

SECTION 5. Section 15, Texas Unemployment Compensation Act (Article 5221b-13, Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and by adding Subsection (d) to read as follows:

(c) **No Assignment of Benefits; Exemptions:** No assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this Act shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was

unemployed. No waiver of any exemption provided for in this subsection shall be valid. The protections and limitations contained in the preceding portion of this section are superseded, to the extent of any conflict, by the provisions regarding child support obligations set out in Subsection (d) of this section.

(d) Child Support Obligations:

(1) An individual filing a new claim for benefits shall, at the time of filing the claim, disclose whether or not the individual owes child support obligations as defined by Subdivision (7) of this subsection. If the individual discloses that he owes child support obligations and is determined to be eligible for benefits, the Commission shall notify the state or local child support enforcement agency enforcing the obligation that the individual has been determined to be eligible for benefits.

(2) The Commission shall deduct and withhold from any benefits payable to an individual that owes child support obligations an amount equal to:

(A) the amount specified by the individual to the Commission to be deducted and withheld under this subdivision, if neither Paragraph (B) nor (C) is applicable;

(B) the amount, if any, determined pursuant to an agreement submitted to the Commission under Section 454(20)(B)(i), Social Security Act, by the state or local child support enforcement agency, unless Paragraph (C) is applicable; or

(C) any amount otherwise required to be so deducted and withheld from the benefits pursuant to legal process, as that term is defined by Section 462(e), Social Security Act, properly served upon the Commission.

(3) The Commission shall pay any amount deducted and withheld under Subdivision (2) of this subsection to the appropriate state or local child support enforcement agency.

(4) Any amount deducted and withheld under Subdivision (2) of this subsection shall for all purposes be treated as if it were paid to the individual as benefits and paid by the individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

(5) In Subdivisions (1) through (4) of this subsection, "benefits" includes amounts payable by the Commission under an agreement entered under any federal law that provides for compensation, assistance, or allowances with respect to unemployment.

(6) This subsection applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the Commission under this subsection which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(7) In this subsection "child support obligations" includes only obligations that are being enforced pursuant to a plan described by Section 454 of the Social Security Act that has been approved by the Secretary of Health and Human Services under Part D, Title IV, Social Security Act.

(8) In this subsection "state or local child support enforcement agency" means any agency of this state or a political subdivision of this state operating pursuant to a plan described by Subdivision (7) of this subsection.

SECTION 6. Section 7, Chapter 322, Acts of the 67th Legislature, Regular Session, 1981 (Article 6252-11d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. USE OF COUNCIL SERVICES. (a) A state agency that is required by federal laws or regulations to have a merit system of personnel administration shall use the services of the council.

(b) To ensure a merit system of personnel administration, the Texas Employment Commission shall use the services of the council notwithstanding any repeal of federal merit requirements.

SECTION 7. This Act takes effect September 1, 1983, and applies only to claims for unemployment compensation benefits filed on or after that date. Claims filed before that date are governed by the law in effect on the filing date, and that law is continued in effect for that purpose.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Jones submitted the following report for the Committee on Finance:

H.B. 1869 (Ordered not printed)

H.B. 2156

#### HOUSE BILL 1869 ORDERED NOT PRINTED

On motion of Senator Jones and by unanimous consent, H.B. 1869 was ordered not printed.

#### MESSAGE FROM THE HOUSE

House Chamber

May 28, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 121, Thanking the Texas Academy of Family Physicians, the Texas Medical Association, the Texas Department of Human Resources, L. W. Snider, M.D., Nurse Betty Lindeman, and the participating physicians of the Texas Academy of Family Physicians for their services during the 68th Session of the Texas Legislature.

S.C.R. 140, Authorizing a clerical correction to H.B. 1473.

H.C.R. 261, In memory of Mr. Odis C. Havis.

H.C.R. 262, Commending the Texas Legislative Service.

H.C.R. 264, Commending Professor Kenneth E. McIntyre.

H.C.R. 266, Commending the University of Texas at Austin.

H.C.R. 269, Congratulating Mr. Robert G. Cherry.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### SENATE RESOLUTION ON FIRST READING

On motion of Senator Truan and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

S.C.R. 141 by Truan

Administration  
Memorializing Congress to continue funding the Corpus Christi Army Depot.

**HOUSE RESOLUTION ON FIRST READING**

The following resolution received from the House was read the first time and referred to the Committee indicated:

**H.C.R. 275**, To Committee on Education.

**MOTION TO PLACE COMMITTEE SUBSTITUTE  
HOUSE BILL 1299 ON THIRD READING**

The Senate resumed consideration of pending business, the same being **C.S.H.B. 1299** on its third reading and final passage.

Question - Shall the Three-Day Rule be suspended?

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1299** be placed on its third reading and final passage.

**C.S.H.B. 1299**, Relating to the establishment of a pilot job training and work experience program for persons receiving financial assistance under the Aid to Families with Dependent Children program.

(President in Chair)

The motion was lost by the following vote: Yeas 18, Nays 12. (Not receiving four-fifths vote of the Members present)

Yeas: Blake, Brooks, Brown, Doggett, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, McFarland, Montford, Sarpalius, Sharp, Sims, Traeger, Williams.

Nays: Caperton, Edwards, Kothmann, Lyon, Mauzy, Parker, Parmer, Truan, Uribe, Vale, Washington, Whitmire.

Absent: Santiesteban.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Blake and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider the following bills and resolution upon adjournment today:

**S.C.R. 138**

**H.B. 2329**

**H.B. 2384**

**H.B. 2429**

**HOUSE BILL 490 ON SECOND READING**

On motion of Senator Doggett and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 490**, Relating to subdivision controls in certain counties; providing a penalty.

The bill was read second time.

Senator Doggett offered the following committee amendment to the bill:

Amend **H.B. 490** by striking lines 4 through 6 on page 5 and by inserting the following before the period on page 10, line 14:

“or from which one or more lots was conveyed by a metes and bounds description and for which no subdivision plat was filed before September 1, 1983”



The committee amendment was read and was adopted.

On motion of Senator Doggett and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### **HOUSE BILL 490 ON THIRD READING**

Senator Doggett moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 490 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

#### **CONFERENCE COMMITTEE ON SENATE BILL 385 GRANTED PERMISSION TO MEET**

On motion of Senator Doggett and by unanimous consent, the Conference Committee on S.B. 385 was granted permission to meet while Senate is in session.

#### **MOTION TO PLACE HOUSE BILL 1631 ON SECOND READING**

Senator Farabee moved to suspend the regular order of business and take up for consideration at this time:

**H.B. 1631**, Relating to the reinstatement or extension of the term of restrictive covenants applicable to certain residential real estate subdivisions.

#### **POINT OF ORDER**

Senator Harris raised a Point of Order against consideration of the bill because the bill was not afforded a public hearing.

The President sustained the Point of Order.

#### **MOTION TO PLACE HOUSE BILL 520 ON SECOND READING**

Senator Sarpalius asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**H.B. 520**, Relating to dismissal of certain misdemeanor charges on completion of a driving safety course.

There was objection.

Senator Sarpalius then moved to suspend the regular order of business and take up H.B. 520 for consideration at this time.

The motion was lost by the following vote: Yeas 14, Nays 16.

Yeas: Blake, Caperton, Edwards, Farabee, Henderson, Howard, Jones, Leedom, McFarland, Montford, Sarpalius, Sharp, Sims, Traeger.

Nays: Brooks, Doggett, Glasgow, Harris, Kothmann, Lyon, Mauzy, Parker, Parmer, Santiesteban, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Absent: Brown.

**MOTION TO PLACE  
HOUSE BILL 529 ON SECOND READING**

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 529**, Relating to prohibition of a city's regulation of firearms, ammunition, and firearm supplies.

**POINT OF ORDER**

Senator Washington raised the Point of Order against consideration of the bill as it violates provisions of the Constitution.

The Chair overruled the Point of Order, stating the Chair does not rule on Constitutional questions.

Question - Shall the regular order be suspended?

**MESSAGE FROM THE HOUSE**

House Chamber  
May 28, 1983

**HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE**

**SIR:** I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to **H.B. 893** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1852** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 586** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1953** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 306** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1753** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1686** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1451** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2160** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 44** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1606** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1966** by a non-record vote.

The House has concurred in Senate amendments to H.B. 1550 by a non-record vote.

The House has concurred in Senate amendments to H.B. 2102 by a non-record vote.

The House has concurred in Senate amendments to H.B. 1148 by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

### HOUSE BILL 2061 ON SECOND READING

On motion of Senator Parmer and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2061**, Relating to the establishment and operation of Gateway State Park and to the establishment of the Gateway State Park Board.

The bill was read second time.

Senator Mauzy offered the following amendment to the bill:

Amend **H.B. 2061** by adding a new Section 3 and a new Section 4 and renumbering the current Section 3 as Section 5 to read as follows:

SECTION 3. Chapter 22, Parks and Wildlife Code, is amended by adding Subchapter R to read as follows:

#### **"SUBCHAPTER R. TRINITY RIVER STATE PARK**

**"Section 22.251. PARK ESTABLISHED: JURISDICTION OF DEPARTMENT. The Trinity River State Park is established under the jurisdiction of the department on property that may be acquired according to this Act.**

**"Section 22.252. DEPARTMENT TO ACQUIRE PARK LAND. (a) The department may acquire by purchase, gift, lease, or condemnation all of the land described in Section 4 of the Act that added this subchapter to this code. The department may acquire the mineral interests in that land.**

**"(b) A lease executed under this section from the state may not exceed 30 years and may be renewed on its expiration. A lease executed under this section from any other public entity is not limited to any term of years. For purposes of this subsection, 'public entity' means an agency or instrumentality of federal, state, or local government, including the board of directors of a municipally owned utility system.**

**"(c) The department may acquire the land with money from the Urban Park Fund.**

**"(d) The department shall not expend any funds for the operation and maintenance of the Trinity River State Park.**

**"(e) The department will honor all existing easements on the property to be acquired under this Act, as well as all existing permits to pump water from the Trinity River and to discharge water into the Trinity River.**

**"Section 22.253. CONDEMNATION. (a) If necessary for the acquisition of the Trinity River State Park, the department may institute condemnation proceedings according to the laws of this state against any person, including a governmental entity.**

**"(b) Costs incurred in the exercise of eminent domain under this section for the relocation, raising, lowering, rerouting, or change in grade or alteration in the**

construction of any electric transmission, telegraph, or telephone line, railroad, conduit, pole, property, facility, or pipeline may be the sole expense of the department.

"(c) 'Sole expense' means the actual cost of the lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of the facility, after deducting the net salvage value derived from the old facility.

"Section 22.254. (a) Nothing in this Act shall preclude or prohibit the City of Dallas from initiating, developing, completing, extending, or maintaining any project, as described in Subsection (b) of this section, whether the project may be located within, partially within, or adjacent to the boundaries of Trinity River State Park.

"(b) For purposes of this section, the City of Dallas by ordinance or resolution of the governing body may approve and authorize any or all of the following:

"(1) the development of a lake to be located within the flood plain of the Trinity River within the City of Dallas;

"(2) the extension of Trinity River flood controls which shall include but not be limited to the construction of drainage channels, swales, levees, and associated flood control appurtenances in the Trinity River flood plain which may be constructed and maintained within the boundaries of Trinity River State Park;

"(3) the extension of Simpson Stuart Road at the point where it may cross the flood plain of the Trinity River; and

"(4) the construction of swales in or adjacent to the natural channel of the Trinity River as necessary to provide offset capacity for full utilization of the McCommas Bluff Reclamation landfill.

"(c) If the City of Dallas approves a project, as authorized by this section, the department shall grant the City of Dallas access to land within Trinity River State Park and whatever permissions are necessary in order to attain the purposes of the project.

"(d) For purposes of this section, Chapter 276, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 5421q, Vernon's Texas Civil Statutes), does not apply."

SECTION 4. (a) Except as otherwise provided by this section, if the Trinity River State Park authorized by Subchapter R, Chapter 22, Parks and Wildlife Code, is established, the park shall consist of the following described land:

(1) PARCEL #1. In Southeast Dallas County, the lands bounded by the following description:

From a Starting Point at the southern edge of the Atchison, Topeka and Santa Fe (Gulf Coast and Santa Fe) Railroad trestle as it coincides with the line of state ownership on or near the west bank of the Trinity River;

Thence, in a westerly direction perpendicular to the Trinity River in a line for a distance of 200 feet;

Thence in a southerly direction, for a distance of approximately 11 miles, following a line running parallel to an 200 feet west of a line of state ownership on or near the west bank of the Trinity River, to the northern edge of Highway 635;

Thence in a easterly direction, for a distance of approximately 200 feet, along Highway 635, to the line of state ownership on or near the west bank of the Trinity River;

Thence in a northerly direction for a distance of approximately 11 miles following the line of state ownership on or near the west bank of the Trinity River, to the Starting Point.

Notwithstanding the above description, that stretch of Parcel #1 which adjoins the property of Sleepy Hollow Country Club, which lies on the west bank of the Trinity River north of Loop 12, will be confined between the Trinity River and the

foot on the east side of the existing man-made levee paralleling the Trinity River on its west bank.

(2) PARCEL #2. In Southeast Dallas County, the lands bounded by the following description:

From a Starting Point at the southern edge of the Atchison, Topeka and Santa Fe (Gulf Coast and Santa Fe) railroad trestle as it coincides with the line of state ownership on or near the east bank of the Trinity River;

Thence, in an easterly direction perpendicular to the Trinity River in a line for a distance of 200 feet;

Thence, in southerly direction for a distance of approximately 11 miles, following a line running parallel to and 200 feet to the east of the line of state ownership on or near the east bank of the Trinity River, to the Northern edge of Highway 635;

Thence in a westerly direction, for a distance of approximately 200 feet, along Highway 635 to the line of state ownership on or near the east bank of the Trinity River;

Thence in a northerly direction for a distance of approximately 11 miles following the line of state ownership on or near the east bank of the Trinity River, to the Starting Point.

(3) PARCEL #3. In Southeast Dallas County, approximately 90 acres of land, described as all those lands enclosed by the boundaries of Rochester Park and the line of state ownership on or near the east bank of the Trinity River that are not currently a part of Rochester Park.

(4) PARCEL #4. In Southeast Dallas County, approximately 320 acres of lands, bounded by the following description, excluding those lands already described in Parcel #2:

From a Starting Point on the line of state ownership on or near the east bank of the Trinity River as it coincides with the eastern boundary of Rochester Park;

Thence, in a northerly direction following the eastern boundary of Rochester Park for a distance of approximately .06 mile;

Thence, never deviating from the eastern boundary of Rochester Park, in an easterly direction for a distance of approximately .09 mile;

Thence, never deviating from the eastern boundary of Rochester Park, in a northerly direction for a distance of approximately .15 mile;

Thence, never deviating from the eastern boundary of Rochester Park, in an easterly direction for approximately .19 mile where this line intersects with the west bank of White Rock Creek;

Thence in an easterly direction, following the west bank of White Rock Creek for a distance of .125 mile to the junction of White Rock Creek and its eastern tributary at that point;

Thence, crossing across White Rock Creek in an easterly direction to the western bank of the eastern tributary;

Thence, in an easterly direction, following the western bank of the eastern tributary for a distance of approximately .56 mile;

Thence, in a southerly direction in a line for a distance of approximately 1.125 miles to a point at the southwestern end of the Loop 12 bridge located on Loop 12 approximately .53 miles east of the east bank of the Trinity River;

Thence, in a southwesterly direction along the southern edge of Loop 12 for a distance of approximately .53 miles to the line of state ownership on or near the east bank of the Trinity River;

Thence in a northerly direction for a distance of approximately 1.56 miles to the Starting Point.

(5) PARCEL #5. In Southeast Dallas County, approximately 1152 acres of land bounded by the following description, excluding those lands already described

in Parcel #2, and excluding those lands currently owned and used by the City of Dallas for water and sanitation treatment purposes:

From a Starting Point at the southeastern corner of Abstract 231 (Dallas County Plat Books, E. Crockett Survey) at the point where said corner intersects the line of state ownership on or near the east bank of the Trinity River;

Thence, in a Northerly direction in a line for a distance of 415 feet following the eastern boundary of Abstract 231 (Dallas County Plat Books, E. Crockett Survey);

Thence, in a Northwesterly direction in a line for a distance of approximately 1.375 miles to a point at the southwest corner of the Loop 12 bridge located on Loop 12 approximately .53 mile east of the east bank of the Trinity River;

Thence, in a Southwesterly direction along the southern edge of Loop 12 for a distance of approximately .53 miles to the line of state ownership on or near the east bank of the Trinity River;

Thence, in a southerly direction for a distance of approximately 2.22 miles to the Starting Point.

(b) In this section, "Trinity River" means only:

(1) the natural Trinity River Channel south from the southern edge of the Atchison, Topeka and Santa Fe (G.C. & S.F.) Railroad trestle to the northernmost point of the artificial channel created by human construction south of Loop 12 and north of Interstate 635; and

(2) the artificial channel created by human construction and located south of Loop 12 and north of Interstate 635.

(c) The lands listed in Subsection (a) of this section do not include a fee simple interest in lands already owned in fee simple by the United States or an agency of the United States, the State Department of Highways and Public Transportation, the County of Dallas, the City of Dallas, any other municipality of the state, or department of such a municipality. However, this does not preclude the Parks and Wildlife Department from acquiring interest in those lands in less than fee simple.

(d) Except as provided by Subsection (c) of this section, the Parks and Wildlife Department may acquire lands in Parcels #1 and #2 in fee simple or in less than fee simple if a substantial decrease in price is thereby achieved.

(e) The Parks and Wildlife Department may deviate from the boundaries established by this section where it finds that the deviation will result in substantial improvement in fulfilling the objectives of this Act, provided that the total amount of land acquired if the Trinity River State Park is established shall approximate the acreage described in Subsection (a) of this section.

(f) The Parks and Wildlife Department may acquire additional areas, not to exceed 100 acres, contiguous to the areas described in Subsection (a) of this section, for reasonable access and vehicular parking.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted.

On motion of Senator Parmer and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

**HOUSE BILL 2061 ON THIRD READING**

Senator Parmer moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 2061 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Henderson, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Harris, Howard, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Henderson, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Harris, Howard.

**HOUSE BILL 529 ON SECOND READING**

The Senate resumed consideration of H.B. 529 on its second reading and passage to third reading.

Question - Shall the regular order of business be suspended?

Senator Sims moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 529**, Relating to prohibition of a city's regulation of firearms, ammunition and firearm supplies.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Parker, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Williams.

Nays: Mauzy, Parmer, Washington.

Absent: Whitmire.

The bill was read second time.

Question - Shall the bill be passed to third reading?

**CONFERENCE COMMITTEE ON HOUSE BILL 2251**

Senator Parker called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 2251 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on H.B. 2251 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chairman; Edwards, Brooks, Doggett and Caperton.

(Senator Traeger in Chair)

### HOUSE BILL 1745 ON SECOND READING

On motion of Senator Howard and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1745**, Relating to mandatory joint elections held by political subdivisions and to the use of county election precincts and polling places.

The bill was read second time.

Senator Henderson offered the following amendment to the bill:

Amend **H.B. 1745** as follows:

(1) On page 1, line 16, between “state” and “are” insert “, other than a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, that is composed of part of one or more counties,”.

(2) On page 1, line 22, after the period insert the following:

If a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, that is composed of part of one or more counties is holding an election on the same day in all or part of the same territory as one or more political subdivisions of this state, the district may hold its election jointly in the election precincts that can be served by common polling places. If the district chooses to hold a joint election, it shall join in an agreement with the political subdivisions regarding the conduct of the election as provided by Subsection (b) of this section.

(3) On page 2, line 2, after “county” and before the bracketing insert “, other than an election held by a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, that is composed of part of one or more counties”.

(4) On page 2, line 26, between “county” and the period insert “or a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, that is composed of part of one or more counties”.

(5) On page 2, line 29, after the period insert the following:

In elections held by a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, that is composed of part of one or more counties, the governing body of the district shall establish the election precincts and designate the polling places for elections held by the district.

The amendment was read and was adopted.

On motion of Senator Howard and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

### RECORD OF VOTES

Senators Glasgow and Henderson asked to be recorded as voting “Nay” on the passage of the bill to third reading.



(President in Chair)

### HOUSE BILL 1745 ON THIRD READING

Senator Howard moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1745 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Glasgow, Washington.

The bill was read third time and was passed.

### RECORD OF VOTES

Senators Glasgow and Henderson asked to be recorded as voting "Nay" on the final passage of the bill.

### COMMITTEE SUBSTITUTE HOUSE BILL 382 ON THIRD READING

On motion of Senator Caperton and by unanimous consent, the regular order of business and provisions of Intent Calendar were suspended to take up for consideration at this time on its third reading and final passage:

**C.S.H.B. 382**, Relating to payment by the state of certain expenses arising from the prosecution of an inmate of the department of corrections.

(On May 18, 1983, **C.S.H.B. 382** was read second time and left as unfinished business with an amendment offered by Senator Washington, with a motion to table by Senator Caperton.)

Question - Shall the amendment be tabled?

On motion of Senator Washington, the pending amendment was withdrawn.

The bill was read third time.

Senator Caperton offered the following amendment to the bill:

Amend **H.B. 382** by striking all below the enacting clause and substituting in lieu thereof the following:

**SECTION 1.** Chapter 103, Code of Criminal Procedure, 1925, is amended by adding Article 1036 to read as follows:

**Art. 1036 COST OF STATEMENT OF FACTS AND TRANSCRIPT.** The state may pay to Walker County, Texas for costs of prosecution of offenses committed while the actor was a prisoner in the custody of the Department of Corrections, or while the actor was an employee of the Department of Corrections in the discharge of his official duties. The court in which the case is tried shall certify the amount of reimbursement for expenses under this provision to the comptroller of public accounts. The comptroller shall issue a warrant in that amount to Walker County subject to the amounts appropriated for this purpose. This provision applies only to the reimbursement of expenses incurred by Walker County in a prosecution which occurs after the effective date of this Act.

**SECTION 2.** This Act takes effect September 1, 1983.

**SECTION 3.** This Act expires August 31, 1985.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by unanimous consent.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

(Senator Traeger in Chair)

The bill as amended was finally passed.

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 385**

Senator Doggett submitted the following Conference Committee Report:

Austin, Texas  
May 28, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 385 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DOGGETT  
TRUAN  
SARPALIUS  
MAUZY  
WASHINGTON

On the part of the Senate

MADLA  
TEJEDA  
OLIVER

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to prehospital and emergency medical services; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. AMENDMENT. Chapter 636, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4447o, Vernon's Texas Civil Statutes), is amended to read as follows:

**"ARTICLE 1. GENERAL PROVISIONS**

"Section 1.01. SHORT TITLE. This Act may be cited as the Emergency Medical Services Act.

"Section 1.02. PURPOSE. The purpose of this Act is to provide for the prompt and efficient transportation of sick and injured patients, after necessary stabilization, and to encourage public access to such transportation in all areas of the state.

"Section 1.03. DEFINITIONS. In this Act:

"(1) 'Advanced life support' means emergency prehospital care provided by a specially skilled emergency medical technician or a paramedic emergency medical technician using invasive medical acts. The provision of advanced life support shall be under the medical supervision and control of a licensed physician.

"(2) 'Basic life support' means emergency prehospital care provided by an emergency care attendant or basic emergency medical technician using noninvasive

medical acts. The provision of basic life support may be under the medical supervision and control of a licensed physician.

"(3) 'Department' means the Texas Department of Health.

"(4) 'Board' means the Texas Board of Health.

"(5) 'Bureau' means the bureau of emergency management of the department.

"(6) 'Bureau chief' means the chief of the bureau of emergency management of the department.

"(7) 'Emergency medical services personnel' means:

"(A) emergency care attendant;

"(B) basic emergency medical technician;

"(C) specially skilled emergency medical technician; or

"(D) paramedic emergency medical technician.

"(8) 'Emergency care attendant' means an individual who has completed a minimum of 40 hours of training approved by the department and who is certified by the department to provide emergency prehospital care by providing initial aid that promotes comfort and avoids aggravation of an injury or illness.

"(9) 'Basic emergency medical technician' means an individual who has received a minimum of 120 hours of training approved by the department and who is certified by the department as minimally proficient to perform emergency prehospital care that is necessary for basic life support and that includes the control of hemorrhaging and cardiopulmonary resuscitation.

"(10) 'Specially skilled emergency medical technician' means an individual who has successfully completed the basic emergency medical technician requirements and an additional minimum of 160 hours of training approved by the department and who is certified by the department as minimally proficient in performing skills required to provide emergency prehospital care by initiating under medical supervision intravenous therapy and endotracheal or esophageal intubation or both.

"(11) 'Paramedic emergency medical technician' means an individual who has successfully completed the basic emergency medical technician requirements and an additional minimum of 400 hours of training approved by the department and who is certified by the department as minimally proficient to provide emergency prehospital care by providing advanced life support that includes initiation under medical supervision of intravenous therapy, endotracheal or esophageal intubation or both, electrical cardiac defibrillation or cardioversion, and drug therapy.

"(12) 'Emergency medical services vehicle' means:

"(A) basic life support emergency medical services vehicle;

"(B) advanced life support emergency medical services vehicle;

"(C) mobile intensive care unit; or

"(D) specialized emergency medical services vehicle.

"(13) 'Basic life support emergency medical services vehicle' means a vehicle that is designed for transporting the sick or injured and that has sufficient equipment and supplies for providing basic life support.

"(14) 'Advanced life support emergency medical services vehicle' means a vehicle that is designed for transporting the sick or injured and that meets the requirements of a basic vehicle and has sufficient equipment and supplies for providing intravenous therapy and endotracheal or esophageal intubation or both.

"(15) 'Mobile intensive care unit' means a vehicle that is designed for transporting the sick or injured and that meets the requirements of the advanced vehicle and has sufficient equipment and supplies to provide cardiac monitoring, defibrillation, cardioversion, drug therapy, and two-way radio communication.

"(16) 'Specialized emergency medical services vehicle' means a vehicle that is designed for transporting the sick or injured by means of air, water, or ground

transportation, that is not a basic or advanced emergency medical services vehicle or a mobile intensive care unit, and that has sufficient equipment and supplies to provide for the specialized needs of the patient transported. The term includes fixed wing aircraft, helicopters, boats, and ground transfer vehicles used for transporting the sick or injured.

“(17) ‘Emergency medical services provider’ means an organization that uses or maintains emergency medical services vehicles or emergency medical services personnel to provide emergency medical care or nonemergency transportation of the sick or injured.

“(18) ‘Emergency medical services volunteer provider’ means an emergency medical services provider that provides emergency prehospital care without remuneration, except for reimbursement for expenses.

“(19) ‘Medical supervision’ means direction given to emergency medical services personnel by a licensed physician under the terms of the Medical Practice Act (Article 4495b, Vernon’s Texas Civil Statutes) and rules promulgated by the Texas State Board of Medical Examiners pursuant to the terms of the Medical Practice Act.

“(20) ‘Person’ means an individual, corporation, organization, government, governmental subdivision or agency, business, trust, partnership, association, or any other legal entity.

“(21) ‘Governmental entity’ means a county, a city or town, a school district, or a special district or authority created in accordance with the Texas Constitution, including a rural fire prevention district, a water district, a municipal utility district, and a hospital district.

“(22) ‘Emergency prehospital care’ means care provided to the sick or injured during emergency transportation to a medical facility, including any necessary stabilization of the sick or injured in connection with that transportation.

“(23) ‘Industrial ambulance’ means any vehicle owned and operated by an industrial facility including both ground vehicles at industrial sites used for the initial transport or transfer of the unstable urgently sick or injured and ground vehicles at industrial sites used to transport persons at those sites who become sick, injured, wounded, or otherwise incapacitated in the course of their employment from a job site to an appropriate medical facility; provided, however, that the vehicle is not available for hire or use by the general public except when assisting the local community in disaster situations or when existing ambulance service is not available.

## **“ARTICLE 2. STATE PLAN DEVELOPMENT AND COORDINATION OF EMERGENCY SERVICES**

### **“Section 2.01 [†]. BUREAU ESTABLISHED.**

There is hereby established within the Texas [State] Department of Health the bureau of emergency management [~~Coordinated Emergency Medical Services Division~~]. The bureau [division] shall be under the direction of a bureau chief [director] with proven ability as an administrator and organizer and with direct experience in emergency medical services.

“Section 2.02 [2]. STATE PLAN. (a) The bureau [division] shall develop a state plan for the prompt and efficient delivery of adequate emergency medical services to acutely sick and injured persons [~~high-risk infants during the neonatal period and persons who are injured or suffering from acute illness~~].

“(b) The actions of the bureau in carrying out its duties under this section shall be considered by the advisory council, and the recommendations of the council shall be reviewed by the board.

### **“Section 2.03. EMERGENCY MEDICAL SERVICE DELIVERY AREAS.**

[(b)] The bureau [division] shall divide the state into emergency medical service delivery areas [~~and shall designate at least one hospital in each area as a trauma~~].

center]. To the extent possible the delivery areas shall coincide with other regional planning areas.

"Section 2.04. COOPERATION OF AGENCIES AND INSTITUTIONS. [(c)] The bureau [division] shall identify all public and private agencies and institutions which are, or may be, utilized for emergency medical service in each area. The cooperation of all concerned agencies and institutions shall be enlisted in developing a well coordinated plan for delivering emergency medical services in each [the] area.

"Section 2.05. INTERAGENCY COMMUNICATIONS NETWORK. [(d)] Each area plan shall include an interagency communications network [system] which will facilitate prompt and coordinated response to medical emergencies by the Department of Public Safety, local police departments, ambulance personnel, medical facilities [designated trauma centers], and other concerned agencies and institutions.

"Section 2.06. USE OF HELICOPTERS. [(e)] Each area plan may [shall] include the use of helicopters which may be available from the Department of Public Safety, the National Guard, or the United States Armed Forces. [Heliports at each trauma center shall be designated.]

"Section 2.07. PARTICIPATION IN FEDERAL PROGRAMS. [(f)] The bureau [division] shall serve as the single state agency to develop state plans required for participation in federal programs involving emergency medical services and may receive and disburse available federal funds to implement the service programs.

"Section 2.08. ACCESSIBILITY OF TRAINING. (a) The bureau shall identify all public and private agencies, institutions, and individuals that are or may be engaged in emergency medical services training in each area. Each area plan must include provisions for encouraging emergency medical services training so as to reduce the cost of training to emergency medical services providers and to make training more accessible to remote or low population areas of the state.

"(b) A governmental entity that sponsors or wishes to sponsor an emergency medical services provider may request the bureau to provide emergency medical services training for emergency care attendants at times and places that are convenient for the provider's personnel if the training is not available locally.

"[(g)] The division shall report to the legislature at the beginning of each regular session the division's progress in developing and implementing a state plan for emergency medical services and shall inform the legislature of any legislation needed to provide adequate emergency medical services in the state.]

### "ARTICLE 3. EMERGENCY MEDICAL SERVICES REGULATORY PROGRAM

#### "Section 3.01. ADVISORY COUNCIL.

(a) The Emergency Medical Services Advisory Council is created as an adjunct to the bureau of emergency management of the department. The council is composed of 18 members appointed by the board. The members shall be appointed from different geographical areas to ensure representation of urban and rural interests. Members must have the following qualifications:

"(1) three must be licensed physicians appointed from nominations received from a statewide professional association of physicians, one of whom must be a board-certified emergency physician;

"(2) two must be members of the governing bodies of municipal governments appointed from nominations received from a statewide association of municipal governments;

"(3) two must be elected members of the commissioners courts of counties appointed from nominations received from a statewide association of county judges or commissioners courts;

"(4) one must be a representative of hospitals appointed from a statewide association of hospitals;

“(5) one must be a private provider of emergency medical services appointed from nominations received from a statewide association of private providers of emergency medical services;

“(6) one must be an emergency medical services volunteer provider;

“(7) one must be a local governmental provider of emergency medical services;

“(8) one must be an emergency medical services educator;

“(9) one must be a paramedic emergency medical technician appointed from nominations received from a statewide association of emergency medical technicians;

“(10) one must be an emergency medical technician appointed from nominations received from a statewide association of emergency medical technicians;

“(11) one must be an emergency nurse appointed from nominations received from a statewide association of licensed professional nurses;

“(12) one must be a representative of a fire department that provides emergency medical services appointed from nominations received from a statewide association of fire fighters; and

“(13) two must be consumer members.

“(b) A person is not eligible for appointment as a consumer member of the council if the person or the person’s spouse:

“(1) is licensed by an occupational regulatory agency in the field of health care;

“(2) is employed by or participates in the management of a business entity or other organization that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment; or

“(3) owns, controls, or has directly or indirectly more than a 10 percent interest in a business entity or other organization that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment.

“(c) Members are appointed for staggered terms of six years, with six members’ terms expiring January 1 of each even-numbered year. If a vacancy occurs on the council, the board shall appoint a person to serve the unexpired portion of the term.

“(d) The council may adopt rules for the conduct of its activities and may elect a chairman from among its members. The council shall meet in the City of Austin at least once in each quarter of each year. The members serve without compensation, but a member of the council is entitled to receive \$50 for each council meeting the member attends and the per diem and travel allowance authorized by the General Appropriations Act for state employees.

“(e) The council shall consider the needs for emergency medical services within the state and shall recommend for the board’s consideration rules to implement standards adopted under this Act.

“Section 3.02. MINIMUM STANDARDS. (a) A person may not operate or cause to be operated an emergency medical services vehicle unless the vehicle is permitted and staffed by emergency medical services personnel in accordance with this Act. A person may not practice as emergency medical services personnel unless the person is certified in accordance with this Act and rules adopted under this Act. The board shall adopt rules establishing:

“(1) minimum standards for personnel certification and performance including certification, decertification, recertification, suspension, emergency suspension, and probation of emergency medical services personnel;

“(2) minimum standards for the approval of courses and training programs and the approval of program instructors, examiners, and course coordinators for the training of emergency medical services personnel and minimum standards for the revocation and probation of the accreditation or certification;

"(3) minimum standards for medical supervision of advanced life support systems by a licensed physician under the terms of the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) and rules promulgated by the Texas State Board of Medical Examiners pursuant to the terms of the Medical Practice Act; and

"(4) minimum standards for granting, suspending, and revoking a biennial registration by permit of emergency medical services vehicles including the following categories of emergency medical services vehicles and equipment:

"(A) basic life support emergency medical services vehicles;

"(B) advanced life support emergency medical services vehicles;

"(C) mobile intensive care units; and

"(D) specialized emergency medical services vehicles.

"(b) When adopting the minimum standards for personnel certification, the board shall consider the education, training, and experience of allied health professionals. The board may establish criteria for interstate reciprocity of emergency medical services personnel:

"(c) Ground or air transfer vehicles and staff that are used to transport a patient who is under a physician's care between medical facilities or between a medical facility and a private residence and industrial ambulances are not subject to this Act.

"(d) This Act applies to a physician, registered nurse, or other health care practitioner licensed by this state only if the health care practitioner staffs an emergency medical services vehicle on a regular basis.

"Section 3.03. STAFFING STANDARDS. (a) Every basic life support emergency medical services vehicle when in service shall be staffed as follows:

"(1) from January 1, 1984, through December 31, 1984, with at least two attendants, one of whom shall be trained to the emergency care attendant level; and

"(2) on and after January 1, 1985, with at least two emergency care attendants.

"(b) The staffing of a medical services vehicle with personnel who are certified at a higher level of training than required by Subsection (a) of this section is considered in compliance with that subsection.

"(c) The board shall adopt rules for the minimum staffing of advanced life support emergency medical services vehicles, mobile intensive care units, and specialized emergency medical services vehicles to become effective no later than March 1, 1984.

"(d) The board may not adopt a rule under this section that would require staffing beyond basic life support levels except in the operation of advanced life support emergency medical services vehicles, mobile intensive care units, and specialized emergency medical services vehicles that provide advanced life support.

"Section 3.04. APPLICATION PROCEDURES; RULES; FEES. (a) Applications for examination for personnel certification must be made to the department on a form and under rules prescribed by the board. A nonrefundable fee determined by the board shall accompany the application as follows:

"(1) for examination for certification or recertification of a paramedic emergency medical technician or specially skilled emergency medical technician, a fee not to exceed an accumulated amount of \$7.50 a year; and

"(2) for examination for certification or recertification of a basic emergency medical technician or emergency care attendant, a fee not to exceed an accumulated amount of \$5 a year.

"(b) Emergency medical services personnel who meet the minimum standards for personnel certification adopted under Section 3.02 of this Act shall be issued a certificate by the department that is valid for a period of four years from the date of issuance.

"(c) Emergency medical services providers must submit an application for vehicle registration in accordance with procedures prescribed by the board. An

emergency medical services volunteer provider must submit with the application a letter of sponsorship from a governmental entity. A nonrefundable fee determined by the board shall accompany the application and may not exceed \$25 for each emergency medical services vehicle or a maximum of \$500 for a fleet of emergency services vehicles. On inspection by the department, emergency medical services vehicles that meet the minimum standards adopted under Section 3.02 of this Act shall be issued a registration by the department that is valid for two years.

“(d) Inspections required under Subsection (c) of this section may be delegated by the department to the commissioners court of a county or the governing body of a municipality at their request and in accordance with criteria and procedures adopted by the board. The commissioners court or governing body shall collect and retain the fee for vehicles it inspects.

“(e) Applications for approval of courses and of training programs must be made to the department on a form and under rules prescribed by the board. Training programs and courses that meet the minimum standards adopted under Section 3.02 of this Act must be approved by the department.

“(f) Application for certification of program instructors, examiners, and course coordinators must be made to the department on a form and under rules prescribed by the board. Program instructors, examiners, and course coordinators who meet the minimum standards adopted under Section 3.02 of this Act shall be issued a certificate that is valid for one year.

“Section 3.05. LATE RECERTIFICATION. A person making application for recertification whose application is received later than the 90th day after the expiration date of the person’s certificate must meet the requirements of the initial certification, including training and fees in effect on the date of the application.

“Section 3.06. DISPOSITION OF FUNDS. The department shall receive and account for all fees and other funds it receives under this Act. The fees and other funds received by the department under this Act shall be deposited in the State Treasury to the credit of a special fund to be known as the bureau of emergency management fund and are appropriated to the department to be used only to administer this Act.

“Section 3.07. DISCIPLINARY ACTIONS. (a) The department is authorized to take the following disciplinary actions for the violation of this Act or a rule adopted under this Act:

“(1) decertification, suspension, emergency suspension, and probation of emergency medical services personnel;

“(2) revocation and probation of course and training program approval;

“(3) revocation and probation of certificates of program instructors, examiners, and course coordinators; and

“(4) revocation and suspension of emergency medical services vehicle permits.

“(b) Except as provided by Section 3.08 of this Act for an emergency suspension, the procedure by which the department takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by department rules for a contested case hearing and by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon’s Texas Civil Statutes).

“Section 3.08. EMERGENCY SUSPENSION. (a) The bureau chief shall issue an emergency order to suspend any certificate or permit issued under this Act if the bureau chief has reasonable cause to believe that the conduct of any certificate holder or permit holder creates an imminent danger to the public health or safety.

“(b) An emergency suspension is effective immediately without a hearing upon notice to the certificate holder or permit holder. In the case of a volunteer provider, notice must also be given to the sponsoring governmental entity.



"(c) On written request of the certificate holder or permit holder, the department shall conduct a hearing not earlier than the 10th day nor later than the 30th day after the date on which a hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded. The hearing and an appeal from a disciplinary action related to the hearing are governed by department hearing rules and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

"Section 3.09. ADVANCED LIFE SUPPORT NOT REQUIRED. This Act does not require any system, service, or agency to provide advanced life support.

"Section 3.10. MUNICIPAL REGULATION. A city or town may establish standards for the staffing or equipment of emergency medical services vehicles. If standards are established under this section, they must be stricter than the minimum standards of this Act and department rules adopted under this Act.

"Section 3.11. NOTICE OF RULE CHANGES. The bureau shall publish any proposed rules or amendments of rules in its official publications at least 90 days before the date of adoption. Before the adoption or amendment of rules, the bureau shall make reasonable efforts to notify the following, which shall be designated as emergency medical services agencies:

"(1) organizations owning or operating an ambulance that is registered with the department;

"(2) emergency medical services coordinators of health systems agencies;

"(3) emergency medical services coordinators of councils of governments;

"(4) the Texas State Board of Medical Examiners;

"(5) course coordinators of established emergency medical services training programs; and

"(6) any other agency or organization designated by the bureau chief.

"Section 3.12. NONTRANSFERABILITY OF CERTIFICATE OR PERMIT. A certificate or permit issued under this Act is not transferable.

"Section 3.13. VARIANCES. (a) An affected emergency medical services provider may request a variance from a standard or rule adopted under this Act based on a specific hardship by applying to the bureau chief.

"(b) On receipt of the request for a variance, the department shall consider the following factors:

"(1) the nearest available service;

"(2) geography;

"(3) demography; and

"(4) any other relevant factors.

"(c) Variances from the minimum standards for staffing and equipment shall be granted for the operation of basic life support emergency medical services vehicles to emergency medical services volunteer providers if the department determines that the volunteer provider is the sole provider in the service area. An emergency medical services volunteer provider requesting a variance as a sole provider must submit a letter to the department from the commissioners court of the county or the governing body of the municipality in which the volunteer provider intends to operate an emergency medical services vehicle. The letter must state that there are no other emergency medical services providers in the service area. If the department determines that the volunteer is not the sole provider in a service area, the department may deny the variance. The volunteer provider shall be given the opportunity for a hearing. Hearings shall be governed by department rules for a contested case hearing and by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

"(d) If a variance is granted under this section, an emergency medical services vehicle permit shall be issued subject to annual review by the department. A provider is encouraged to upgrade staffing and equipment to meet the minimum standards set by the rules adopted under this Act.

“(e) For the purposes of this section, a municipally operated emergency medical service, that provides emergency prehospital care with the same personnel who provide fire or police services, and that was in existence on January 1, 1983, is considered to be the equivalent of an emergency medical services volunteer provider.

“Section 3.14. ENFORCEMENT. (a) The attorney general of this state or a district or county attorney may institute a civil action to compel compliance with this Act or to enforce a rule adopted under this Act. In addition to any injunctive relief or any other remedy provided by law, a person who violates this Act or a rule adopted under this Act is liable for a civil penalty not to exceed \$250 a day for each violation.

“(b) All civil penalties recovered in a suit instituted under this Act by the state at the request of the department shall be deposited in the State Treasury to the credit of the General Revenue Fund. All civil penalties recovered in a suit first instituted by a local government or governments under this Act shall be paid to the local government or governments first instituting the suit. Cities and counties are encouraged to use the recovered penalties above the cost of bringing suit to improve the delivery of emergency medical services in their jurisdictions.

“Section 3.15. CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly practices as, attempts to practice as, or represents himself to be a paramedic emergency medical technician or a specially skilled emergency medical technician unless the person holds a valid certificate issued by the department under this Act. An offense under this subsection is a Class A misdemeanor.

“(b) A person commits an offense if the person knowingly practices as, attempts to practice as, or represents himself to be a basic emergency medical technician or emergency care attendant without being currently certified by the department under this Act. An offense under this subsection is a Class A misdemeanor.

“(c) Except as provided by Subsection (d) of this section, a person commits an offense if the person knowingly uses or permits to be used a vehicle owned, operated, or controlled by the person for the transportation of a sick or injured person unless the vehicle is currently registered by permit by the department. An offense under this subsection is a Class C misdemeanor.

“(d) It is an exception to the application of Subsection (c) of this section that the person:

“(1) transports a sick or injured person to medical care as an individual citizen not ordinarily engaged in that activity;

“(2) transports a sick or injured person in a casualty situation that exceeds the basic vehicular capacity or capability of an emergency medical services provider; or

“(3) transports a sick or injured person as an emergency medical services provider in a vehicle that has been granted a vehicle variance under Section 3.13 of this Act.

“(e) A person who is an emergency medical services provider commits an offense if the person knowingly advertises or causes to be advertised in any manner any false, misleading, or deceptive statement or representation with regard to emergency medical services staffing, equipment, and vehicles. An offense under this subsection is a Class A misdemeanor.

“(f) Venue for prosecution of an offense under this section is in the county in which the offense is alleged to have occurred or in Travis County.

“Section 3.16. CERTIFICATION AND EXEMPTION FROM PAYMENT OF FEES OF PERSONS VOLUNTARILY CERTIFIED ON EFFECTIVE DATE OF ACT. A person who is voluntarily certified by the department as a paramedic emergency medical technician, specially skilled emergency medical technician,

basic emergency medical technician, or emergency care attendant on the effective date of this Act is considered to be certified under this Act. However, the person is not subject to the fees provided in this Act until the expiration or renewal date of his certification.

"Section 3.17. CONSENT FOR EMERGENCY CARE. Consent for emergency care of an individual is not required if:

"(1) the individual is unconscious or unable to communicate because of an injury, accident, or illness and the individual is suffering from what reasonably appears to be a life-threatening injury or illness;

"(2) a court of record orders the treatment of an individual who is in an imminent emergency to prevent serious bodily injury to the individual or loss of life;  
or

"(3) the individual is a minor who is suffering from what reasonably appears to be a life-threatening injury or illness and whose parents, managing or possessory conservator, or guardian is not present.

"Section 3.18. APPLICABLE STANDARD OF CARE. Any individual, agency, organization, institution, corporation, or entity of state or local government that authorizes, sponsors, supports, finances, or supervises the functions of emergency room personnel and emergency medical services personnel is not liable for any civil damages for any act or omission that occurs in connection with the training of emergency medical services personnel or with any part of the services or treatment rendered to a patient or potential patient by emergency medical services personnel, if the training, services, or treatment are performed in accordance with the standard of ordinary care."

SECTION 2. AMENDMENT. Section 3, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-3, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) A vehicle registered by the Texas Board of Health under Section 3.04, Chapter 636, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4447o, Vernon's Texas Civil Statutes), to be operated as an ambulance and used exclusively as an ambulance by a nonprofit, volunteer ambulance company shall be registered without the payment of an annual registration fee. The application for registration must be accompanied by a copy of the registration issued by the Texas Board of Health and an affidavit signed by an officer of the company stating that the vehicle is used exclusively by a nonprofit, volunteer ambulance company as an ambulance. The application must be approved by the Department as provided by Section 3aa of this Act.

SECTION 3. TERMS OF INITIAL MEMBERS. Six initial members appointed to the Emergency Medical Services Advisory Council serve for terms expiring January 1, 1986, six initial members serve for terms expiring January 1, 1988, and six initial members serve for terms expiring January 1, 1990. The 18 initial members shall draw lots to determine the lengths of their terms. The board shall make the initial appointments effective January 1, 1984.

SECTION 4. CHANGE OF NAME. The name of the coordinated emergency medical services division of the Texas Department of Health is changed to the bureau of emergency management and the title of the director of the division is changed to bureau chief. A reference in a statute to the division means the bureau and a reference in a statute to the division director means the bureau chief.

SECTION 5. REPEALER. Chapter 360, Acts of the 48th Legislature, Regular Session, 1943 (Article 4590b, Vernon's Texas Civil Statutes), is repealed.

SECTION 6. EFFECTIVE DATE. This Act takes effect January 1, 1984.

SECTION 7. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### **HOUSE BILL 895 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 895**, Relating to the withholding of names drawn for jury service.

The bill was read second time and was passed to third reading.

#### **HOUSE BILL 895 ON THIRD READING**

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 895** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2154 ADOPTED**

Senator Lyon called from the President's table the Conference Committee Report on **H.B. 2154**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 27, 1983.)

On motion of Senator Lyon, the Conference Committee Report was adopted.

#### **CONFERENCE COMMITTEE REPORT SENATE BILL 705**

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas  
May 28, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 705** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROOKS  
SHARP  
EDWARDS  
PARMER  
WHITMIRE

On the part of the Senate

COLBERT  
HACKNEY  
GREEN  
WALLACE  
SHAW

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to a program to screen and treat certain young persons for special senses and communication disorders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SHORT TITLE. This Act may be cited as the Special Senses and Communication Disorders Act.

SECTION 2. PURPOSE. The purpose of this Act is to establish a program to identify, at as early an age as possible, those individuals from birth through 20 years of age who have special senses and communication disorders and who need remedial vision, hearing, speech, and language services. Early detection and remediation of those disorders will provide the individuals with the opportunity to achieve both academic and social status through adequate educational planning and training.

SECTION 3. DEFINITIONS. In this Act:

- (1) "Board" means the Texas Board of Health.
- (2) "Communication disorder" means an abnormality of functioning related to the ability to express and receive ideas.
- (3) "Department" means the Texas Department of Health.
- (4) "Preschool" means an educational or child-care institution that admits children who are three years of age or older but less than five years of age.
- (5) "Professional examination" means a diagnostic evaluation performed by a licensed, certified, or sanctioned individual whose expertise addresses the diagnostic needs of the individual identified as having a possible special senses or communication disorder.
- (6) "Provider" means an individual, partnership, association, corporation, state agency, or political subdivision of the state that provides remedial services to individuals who have special senses and communication disorders and includes a physician, audiologist, speech pathologist, optometrist, psychologist, hospital, clinic, rehabilitation center, university, or medical school.
- (7) "Remedial services" means professional examinations and prescribed remediation, including prosthetic devices, for special senses or communication disorders.
- (8) "School" means an educational institution that admits children who are five years of age or older but less than 21 years of age.
- (9) "Screening" means a test or battery of tests for the rapid determination of the need for a professional examination.
- (10) "Special senses" means the faculties by which the conditions or properties of things are perceived and includes vision and hearing.

SECTION 4. SCREENING REQUIREMENTS. (a) The board shall adopt rules for the mandatory screening of individuals who attend public or private preschools or schools to detect vision and hearing disorders and any other special senses or communication disorders that the board may specify. The board shall adopt a schedule for implementing the screening requirements and shall give priority to age groups that may derive the greatest educational and social benefits from early identification of special senses and communication disorders. In developing the rules, the board may consider the number of individuals to be screened, the availability of personnel qualified to administer the required screening tests, the availability of appropriate screening equipment, and the availability of state and local funds for screening activities. The rules shall provide for acceptance of screening test results if the screening test has been conducted by a qualified professional utilizing acceptable screening procedures, regardless of whether that professional is under contract with the department.

(b) If the rules require an individual to be screened, the individual shall undergo approved screening tests for vision and hearing disorders and any other

special senses and communication disorders specified by the board. The individual shall comply with the board's requirements as soon as possible after the individual's admission to a preschool or school and within the time period set by the board. The individual, or if the individual is a minor, the minor's parent, managing conservator, or guardian, may elect to substitute one or more professional examinations for the required screening tests.

(c) An individual is exempt from the screening requirements of this section if the screening tests conflict with the tenets and practices of a recognized church or religious denomination of which the individual is an adherent or a member. The individual, or if the individual is a minor, the minor's parent, managing conservator, or guardian, shall submit to the admitting officer on or before the day of admission an affidavit stating the objections to screening.

(d) The chief administrator of each preschool or school shall ensure that each individual admitted to the preschool or school has complied with the screening requirements set by the board or has submitted an affidavit of exemption.

(e) The chief administrator of each preschool or school shall maintain screening records for each individual who is in attendance on a form prescribed by the department, and those records must be open for inspection by the department or local health department. An individual's screening records may be transferred among preschools and schools with the specific consent of the individual, or if the individual is a minor, the minor's parent, managing conservator, or guardian.

(f) Each preschool or school shall submit to the department an annual report on the screening status of the individuals in attendance during the reporting year and shall include in the report any other information required by the board. The report must be on a form prescribed by the department and must be submitted according to the board's rules.

(g) The department may coordinate the special senses and communication disorders screening activities of school districts, private schools, state agencies, volunteer organizations, and other entities so that the efforts of each entity are complementary rather than augmented and duplicative. The department may provide technical assistance to those entities in developing screening programs.

**SECTION 5. PROVISION OF REMEDIAL SERVICES.** (a) The department may provide remedial services either directly or through approved providers to individuals who have certain special senses and communication disorders and who are not eligible for special education services administered by the Central Education Agency through the public schools, but who are eligible for remedial services provided by the department.

(b) The board shall adopt rules to describe the type, amount, and duration of remedial services that the department may provide. The rules must establish medical, financial, and other criteria to be applied by the department in determining an individual's eligibility for the services. The board may establish a schedule to determine financial eligibility and may require an individual, or if the individual is a minor, the minor's parent, managing conservator, or guardian, to pay for or reimburse the department for a part of the cost of the remedial services provided. Remedial services may not be required without the consent of the individual, or if the individual is a minor, the minor's parent, managing conservator, or guardian.

**SECTION 6. ELIGIBILITY.** (a) In this section "other benefit" means a benefit to which an individual is entitled, other than a benefit under this Act, for payment of the costs of remedial services, including:

- (1) benefits received under a personal insurance contract;
- (2) payment received from another person for personal injury caused by the other person's negligence or wrongdoing; and
- (3) payments received from any other source.

(b) An individual is not eligible to receive remedial services authorized by this Act to the extent that the individual or the parent, managing conservator, or other

person who has a legal obligation to support the individual is eligible for some other benefit that would pay for all or part of the services. On a prior showing of good cause, the department may waive this requirement if the department finds that the enforcement of this section would tend to disrupt the administration or prevent the provision of remedial services to otherwise eligible recipients or defeat the purpose of this Act.

(c) An applicant for or recipient of remedial services authorized by this Act shall inform the department, at the time of application or at any time during eligibility and receipt of services, of any other benefit to which the applicant or recipient may be entitled or to which the parent, managing conservator, or other person who has a legal obligation to support the applicant or recipient may be entitled.

(d) The individual or the parent, managing conservator, or other person who has a legal obligation to support an individual who has received remedial services from the department that are covered by some other benefit shall reimburse the department to the extent of the services provided when the other benefit is received.

(e) The department may recover the expenditure for services provided under this Act from a person who does not reimburse the department as required in this section or from any third party on whom there is a possible legal obligation to pay other benefits and to whom notice of the department's interests in the other benefits has been given. The department has a separate and distinct cause of action, and the commissioner of health may, without written consent, request the attorney general to bring suit in the appropriate court of Travis County on behalf of the department. A suit brought under this section need not be ancillary or dependent on any other action. In a judgment in favor of the department, the court may award attorney's fees, court costs, and interest accruing from the date on which the department first provides services to the individual to the date on which the department is reimbursed.

(f) The department may modify, suspend, or terminate the eligibility of an applicant for or recipient of remedial services after notice to the individual affected and the opportunity for a fair hearing. Fair hearings must be conducted in accordance with the board's informal hearing rules. The board shall adopt rules containing criteria for action under this section.

**SECTION 7. ADDITIONAL POWERS AND DUTIES.** (a) The board shall adopt substantive and procedural rules necessary to administer screening activities and provide remedial services.

(b) The department may require that persons who administer special senses and communication disorders screening tests complete an approved training program, and the department may train those persons and approve training programs.

(c) The department shall monitor the quality of screening activities provided under this Act.

(d) The department may directly or through local health departments enter and inspect records maintained by a preschool or school relating to screening for special senses and communication disorders.

(e) The department may enter into contracts and agreements necessary to administer this Act, including contracts for the purchase of remedial services.

(f) The department may provide educational and other material to assist local screening activities.

(g) The department may conduct research and compile statistics relating to the provision of remedial services to individuals with special senses and communication disorders and relating to the availability of those services in the state.

(h) The department may accept appropriations, donations, and reimbursements, including donations of prosthetic devices, and may apply those items to the purposes of this Act.

(i) The department shall select providers of remedial services according to criteria established in rules adopted by the board.

(j) The department shall compile and publish a report for the legislature on or before February 1 of each year describing the conduct of the program and its impact on public health.

**SECTION 8. SPECIAL PROVISIONS FOR SPEECH, LANGUAGE, AND HEARING SCREENING, PROFESSIONAL EXAMINATION, AND REMEDIAL SERVICES.** (a) A person who provides speech and language screening services authorized by this Act must be appropriately licensed or certified or trained by a person who is appropriately licensed or certified.

(b) A person who provides a professional examination or remedial services authorized by this Act for speech, language, or hearing disorders must be appropriately licensed or certified.

**SECTION 9. INTERAGENCY COMMITTEE.** (a) An interagency committee on special senses and communication disorders is established. The committee is composed of one delegate appointed by the chief administrative officer of each of the following agencies:

- (1) the State Commission for the Blind;
- (2) the Texas Commission for the Deaf;
- (3) the Texas Department of Human Resources;
- (4) the Texas Department of Mental Health and Mental Retardation;
- (5) the Central Education Agency;
- (6) the Texas Department of Community Affairs;
- (7) the Texas Department of Health;
- (8) the Texas School for the Deaf; and
- (9) the Texas School for the Blind.

(b) The committee shall adopt written procedures for the conduct of its duties and may elect officers as it finds necessary.

(c) The committee shall assist the department in coordinating among participating agencies the special senses and communication disorders screening program and the remedial services programs.

(d) The committee shall meet at least once each calendar year in Austin and at other times and locations as the committee finds necessary.

(e) Each delegate is entitled to be reimbursed by the appointing agency for expenses incurred in performing his duties under this Act. The reimbursement may not exceed the amounts specified in the General Appropriations Act as transportation and per diem allowances for state employees.

**SECTION 10. CHILDREN'S VISION SCREENING ADVISORY COMMITTEE.** (a) The board shall appoint a children's vision screening advisory committee. Appointments to the advisory committee shall be made with due regard for the race, creed, sex, religion, national origin of the appointees, and geographical representation of the members of the committee.

(b) The advisory committee is composed of:

- (1) two physicians who are licensed by the Texas State Board of Medical Examiners and who specialize in ophthalmology;
- (2) two optometrists who are licensed by the Texas Optometry Board, one of whom is a member of the Texas Optometric Association and one of whom is a member of the Texas Association of Optometrists; and
- (3) two persons who have experience in and an interest in children's vision problems to represent the public.

(c) A person is not eligible for appointment under Subdivision (3) of Subsection (b) of this section if the person or the person's spouse:



(1) is licensed by an occupational regulatory agency in the health-care field;  
(2) is employed by any health care facility, corporation, or agency or by a corporation authorized to underwrite health-care insurance;

(3) governs or administers a health-care facility, corporation, or agency; or  
(4) has a financial interest, other than a consumer's interest, in a health-care facility, corporation, or agency.

(d) Advisory committee members serve for staggered six-year terms, with the terms of two members expiring on August 31 on each odd-numbered year.

(e) A vacancy on the advisory committee is filled by the board in the same manner as other appointments to the advisory committee.

(f) A member of the advisory committee is entitled to be reimbursed for expenses incurred in performing the member's duties under this Act. The reimbursement is in an amount specified in the General Appropriations Act as transportation and per diem allowances for state employees.

(g) The advisory committee shall advise the board in the adoption of rules establishing standards for persons administering vision screening tests and standards for referral and follow-up.

(h) The advisory committee, after obtaining approval from the department, may invite representatives of professional and volunteer organizations to participate in its activities.

**SECTION 11. CHILDREN'S SPEECH, HEARING, AND LANGUAGE SCREENING ADVISORY COMMITTEE.** (a) The board shall appoint a children's speech, hearing, and language screening advisory committee. Appointments to the advisory committee shall be made with due regard to race, creed, sex, religion, and national origin of the appointees, and geographical representation of the members of the committee.

(b) The advisory committee is composed of:

(1) a speech pathologist who is certified by the American Speech, Language, and Hearing Association;

(2) an audiologist who is certified by the American Speech, Language, and Hearing Association;

(3) a physician who is licensed by the Texas State Board of Medical Examiners and who specializes in problems of the ear, nose, and throat;

(4) a specialist in communications disorders who specializes in treatment of preschool children; and

(5) a person who has an expressed interest in children's speech, hearing, and language problems or is a parent of such a child.

(c) Advisory committee members serve for two-year terms.

(d) A vacancy on the advisory committee is filled by the board in the same manner as other appointments to the advisory committee.

(e) A member of the advisory committee is entitled to be reimbursed for expenses incurred in performing the member's duties under this Act. The reimbursement is in an amount specified in the General Appropriations Act as transportation and per diem allowances for state employees.

(f) The advisory committee shall advise the board in the adoption of rules establishing standards for persons administering speech, hearing, and language screening tests and standards for referral and follow-up, including standards for any remedial services authorized by the board.

(g) The advisory committee, after obtaining approval from the department, may invite representatives of professional and volunteer organizations to participate in its activities.

**SECTION 12. APPOINTMENTS.** In making the initial appointments to the Children's Vision Screening Advisory Committee established by Section 10 of this Act, the Texas Board of Health shall designate two members to serve terms

expiring August 31, 1985, two members to serve terms expiring August 31, 1987, and two members to serve terms expiring August 31, 1989.

SECTION 13. REPEALER. Chapter 754, Acts of the 60th Legislature, Regular Session, 1967 (Article 4447g, Vernon's Texas Civil Statutes), and Chapter 804, Acts of the 66th Legislature, Regular Session, 1979 (Article 4419f, Vernon's Texas Civil Statutes), are repealed.

SECTION 14. EFFECTIVE DATE. This Act takes effect September 1, 1983.

SECTION 15. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT SENATE BILL 216

Senator Leedom submitted the following Conference Committee Report:

Austin, Texas  
May, 27, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 216 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

LEEDOM  
BLAKE  
FARABEE  
HENDERSON  
JONES

On the part of the Senate

DANBURG  
CONNELLY  
LEE OF HARRIS  
GIBSON OF ERATH  
HILL OF TRAVIS

On the part of the House

### A BILL TO BE ENTITLED AN ACT

relating to licenses and permits and to license fees, user fees, penalties, and other charges connected with the duties, services, and functions of the Parks and Wildlife Department; amending the Parks and Wildlife Code, as amended, by amending Subsections (a) and (b), Section 31.026; Section 31.030; Subsection (c), Section 31.037; Subsection (b), Section 31.041; Subsection (b), Section 31.043; Subsection (a), Section 31.048; Section 42.012; Section 42.013; Subsection (d), Section 42.017; Section 43.003; Subsection (a), Section 43.012; Section 43.044; Subsection (c), Section 43.072; Section 43.202; Section 43.253; Subsection (a), Section 43.256; Section 44.003; Section 45.003; Subsection (a), Section 46.004; Subsection (b), Section 46.005; Subsection (b), Section 46.0051; Section 46.006; Subsection (b), Section 46.104; Subsections (b) and (c), Section 47.002; Subsections (b) and (c), Section 47.003; Subsection (b), Section 47.004; Subsection (b), Section 47.005; Subsections (a) and (b), Section 47.007; Subsection (b), Section 47.009; Section 47.010; Subsection (b), Section 47.011; Subsection (b), Section 47.013; Subsection (b), Section 47.014; Subsection (b), Section 47.015; Subsections (b) and (d), Section 47.016; Section 48.005; Section 49.003; Section 49.004; Section 49.0045; Section

49.007; Subsection (b), Section 49.008; Section 50.002; Section 51.005; Subsection (c), Section 66.206; Subsection (g), Section 66.201; Subsection (d), Section 66.211; Subsection (b), Section 76.017; Section 76.104; Subsection (b), Section 77.031; Subsection (b), Section 77.033; Subsection (b), Section 77.035; Subsection (b), Section 77.042; Subsection (b), Section 77.043; Subsection (b), Section 77.048; and Section 78.003; and by repealing Sections 42.006, 42.007, 42.008, 42.015, 42.016, 43.049, 43.257, 47.006, 47.012, 48.007, 61.208, and 258.032.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (a) and (b), Section 31.026, Parks and Wildlife Code, are amended to read as follows:

"(a) Each application for an original or renewal certificate of number for a motorboat shall be accompanied by a two-year fee determined by the following classification schedule:

<u>"Class</u>	<u>Description of Boat</u>	<u>Fee</u>
"Class A	less than 16 feet in length	<u>\$12</u> [ <del>\$6.00</del> ]
"Class 1	16 feet or over and less than 26 feet in length	<u>\$18</u> [ <del>\$9.00</del> ]
"Class 2	26 feet or over and less than 40 feet in length	<u>\$24</u> [ <del>\$12.00</del> ]
"Class 3[:]"	40 feet or more in length	<u>\$30</u> [ <del>\$15.00</del> ]

"(b) The fee for a boat less than 16 feet in length owned by a boat livery and used for rental purposes is \$6 [~~\$3.00~~] for each original and renewal application for a certificate of number."

SECTION 2. Section 31.030, Parks and Wildlife Code, is amended to read as follows:

"Section 31.030. Duplicate Certificates and Decals. (a) If a certificate of number becomes lost, mutilated, or illegible, the owner of the motorboat for which the certificate was issued may obtain a duplicate on application to the department and the payment of a fee of \$2 [~~\$1~~].

"(b) If a registration decal becomes lost, mutilated, or illegible, the owner of the motorboat for which the decal was issued may obtain a replacement decal on application to the department and the payment of a fee of \$2 [~~\$1~~]."

SECTION 3. Subsection (c), Section 31.037, Parks and Wildlife Code, is amended to read as follows:

"(c) The purchaser of a motorboat shall present evidence of his ownership to the department within a reasonable time along with his name, address, and the number of the motorboat and shall at the same time pay to the department a fee of \$2 [~~\$1~~]. On receipt of the application and fee the department shall transfer the certificate of number issued for the motorboat to the new owner. Unless the application is made and fee paid within a reasonable time the motorboat is without a certificate of number, and it is unlawful for any person to operate the motorboat until the certificate is issued."

SECTION 4. Subsection (b), Section 31.041, Parks and Wildlife Code, is amended to read as follows:

"(b) The application for a number must state that the applicant is a dealer or manufacturer within the meaning of this chapter, and the facts stated on the application must be sworn before an officer authorized to administer oaths. The two-year fee for a dealer's and manufacturer's number is \$45 [~~\$25~~]. No number may be issued until the provisions of this section have been satisfied."

SECTION 5. Subsection (b), Section 31.043, Parks and Wildlife Code, is amended to read as follows:

"(b) The owner of a vessel not required to carry a manufacturer's serial number may file an application for a serial number with the department on forms approved by it. The application must be signed by the owner of the vessel and must

be accompanied by a fee of \$2 [~~\$1~~]. On receipt of the application in approved form, the department shall enter the information on the records of its office and shall issue to the applicant a serial number."

SECTION 6. Subsection (a), Section 31.048, Parks and Wildlife Code, is amended to read as follows:

"(a) The fee for the issuance of a certificate of title or for the notation of a security interest, lien, or other encumbrance is \$5 [~~\$3.50~~] and is treated as fees collected under Section 31.026 of this code."

SECTION 7. Section 42.012, Parks and Wildlife Code, is amended to read as follows:

"Section 42.012. Resident License Fee. The fee for a resident hunting license shall be set by the commission in an amount that is reasonable to defray administrative costs, but not less than \$8. Fifty [~~is \$5.25, 25~~] cents of the fee [which] may be retained by an authorized agent issuing the license as his collection fee."

SECTION 8. Section 42.013, Parks and Wildlife Code, is amended to read as follows:

"Section 42.013. Resident-Exempt License Fee. The fee for a resident-exempt hunting license shall be set by the commission in an amount that is reasonable to defray administrative costs, but not less than \$5. Fifty [~~is \$1.25, 25~~] cents of the fee [which] may be retained by the officer issuing the license as his collection fee."

SECTION 9. Subsection (d), Section 42.017, Parks and Wildlife Code, is amended to read as follows:

"(d) The fee for a duplicate license shall be set by the commission in an amount that is reasonable to defray administrative costs, but not less than \$5. Fifty [~~is 50 cents, 25~~] cents of the fee [which] may be retained by the officer issuing the license as his collection fee."

SECTION 10. Section 43.003, Parks and Wildlife Code, is amended to read as follows:

"Section 43.003. Hunting Boat License Fee. The fee for a hunting boat license is \$50 [~~\$25~~]."

SECTION 11. Subsection (a), Section 43.012, Parks and Wildlife Code, is amended to read as follows:

"(a) The department or its agent may issue a white-winged dove stamp to any person on the payment to the department of \$6 [~~\$3~~]."

SECTION 12. Section 43.044, Parks and Wildlife Code, is amended to read as follows:

"Section 43.044. License Fees. (a) The fees for shooting preserve licenses are:

"(1) \$15 [~~\$10~~] if the area of the shooting preserve is less than 500 acres;

"(2) \$40 [~~\$25~~] if the area of the shooting preserve is 500 acres or more but less than 1,000 acres; and

"(3) \$60 [~~\$40~~] if the area of the shooting preserve is 1,000 acres or more.

"(b) The fee for a shooting resort license is \$50 [~~\$25~~]."

SECTION 13. Subsection (c), Section 43.072, Parks and Wildlife Code, is amended to read as follows:

"(c) The private bird shooting area license fee is \$50 [~~\$25~~]."

SECTION 14. Section 43.202, Parks and Wildlife Code, is amended to read as follows:

"Section 43.202. Fee. The fee for an archery hunting stamp is \$6 [~~\$3.25~~], of which 50 cents [~~25 cents~~] shall be retained by the agent issuing the stamp as a collection fee, except that employees of the department may not retain the collection fee."

SECTION 15. Section 43.253, Parks and Wildlife Code, is amended to read as follows:

"Section 43.253. License Fees. (a) The fee for a primary field trial area license is \$45 [~~\$25~~].

"(b) The fee for each auxiliary field trial area license is \$9 [~~\$5.25~~]."

SECTION 16. Subsection (a), Section 43.256, Parks and Wildlife Code, is amended to read as follows:

"(a) A person holding a valid Texas hunting license~~[, including a license issued to a nonresident under Section 43.257 of this code,]~~ may hunt and take captive-reared birds on land covered by a primary field trial area license or an auxiliary field trial area license at any time during a member field trial, a licensed field trial, a sanctioned field trial, or during retriever dog training."

SECTION 17. Section 44.003, Parks and Wildlife Code, is amended to read as follows:

"Section 44.003. Game Breeder's License. The department shall issue a game breeder's license on payment of a license fee of \$10 [~~\$5~~]. The license is valid for a period of one year following the date of its issuance."

SECTION 18. Section 45.003, Parks and Wildlife Code, is amended to read as follows:

"Section 45.003. Types of Licenses; Fees. (a) A class 1 commercial game bird breeder's license entitles the holder to engage in the business of propagating game birds for sale or holding game birds in captivity. The fee for a class 1 commercial game bird breeder's license is \$100 [~~\$50~~].

"(b) A class 2 commercial game bird breeder's license entitles the holder to engage in the business of propagating game birds for sale or holding game birds in captivity, except that the holder of a class 2 license may not possess more than 1,000 game birds during any calendar year. The fee for a class 2 commercial game bird breeder's license is \$10 [~~\$5~~]."

SECTION 19. Subsection (a), Section 46.004, Parks and Wildlife Code, is amended to read as follows:

"(a) The resident fishing license fee shall be set by the commission in an amount that is reasonable to defray administrative costs, but not less than \$8 [~~is \$5~~]."

SECTION 20. Subsection (b), Section 46.005, Parks and Wildlife Code, is amended to read as follows:

"(b) The fee for the temporary sportfishing license is \$5 [~~\$2.50~~], of which fee 50 cents may be retained as a collection fee."

SECTION 21. Subsection (b), Section 46.0051, Parks and Wildlife Code, is amended to read as follows:

"(b) The license fee is an amount set by the commission but not less than \$7 [~~\$4.50~~], of which fee 50 cents may be retained as a collection fee."

SECTION 22. Section 46.006, Parks and Wildlife Code, is amended to read as follows:

"Section 46.006. Duplicate License. (a) If a license issued under this subchapter is lost or destroyed, a license deputy may issue a duplicate license on application of the license holder and receipt of a \$5 [~~50-cent~~] duplicate license fee.

"(b) The application for a duplicate license must be an affidavit containing:

"(1) the facts concerning the loss or destruction of the license; and

"(2) the serial number of the lost or destroyed license.

"(c) The license deputy issuing the license may retain 50 cents [~~25-cents~~] as a fee for issuing the duplicate license."

SECTION 23. Subsection (b), Section 46.104, Parks and Wildlife Code, is amended to read as follows:

"(b) The fee for the license is \$5.75 [~~\$5~~]. Seventy-five [~~Fifteen~~] cents of the fee may be retained by the issuing officer."

SECTION 24. Subsections (b) and (c), Section 47.002, Parks and Wildlife Code, are amended to read as follows:

“(b) The license fee for a general commercial fisherman’s license is \$15 [~~\$10~~]. Fifty [~~Twenty-five~~] cents of the fee may be retained by the issuing agent, except an employee of the department.

“(c) The license fee for a nonresident general commercial fisherman’s license is the amount that a Texas resident is charged in the state in which the nonresident is residing for a similar license or \$25 [~~\$20~~], whichever amount is the larger. The department shall publish a list of nonresident fees according to the fees of each state and may alter the fee amounts in the list before September 1 of each year for the remainder of that license year. Fifty [~~Twenty-five~~] cents of the fee may be retained by the issuing agent, except an employee of the department.”

SECTION 25. Subsections (b) and (c), Section 47.003, Parks and Wildlife Code, are amended to read as follows:

“(b) The license fee for a resident commercial finfish fisherman’s license is \$65 [~~\$50~~]. Fifty [~~Twenty-five~~] cents of the fee may be retained by the issuing agent, except an employee of the department.

“(c) The license fee for a nonresident commercial finfish fisherman’s license is the amount that a Texas resident is charged in the state in which the nonresident is residing for a similar license or \$125 [~~\$100~~], whichever amount is larger. The department shall publish a list of nonresident fees according to the fees of each state and may alter the fee amounts in the list before September 1 of each year for the remainder of that license year. Fifty [~~Twenty-five~~] cents of the fee may be retained by the issuing agent, except an employee of the department.”

SECTION 26. Subsection (b), Section 47.004, Parks and Wildlife Code, is amended to read as follows:

“(b) The license fee for a fish guide license is \$50 [~~\$25~~].”

SECTION 27. Subsections (a) and (b), Section 47.007, Parks and Wildlife Code, are amended to read as follows:

“(a) No person may use a skiff or a boat required to be numbered or registered under the laws of this state or the United States for the purpose of catching or assisting in catching fish, oysters, or any other edible aquatic life, except shrimp and menhaden, from tidal water for pay or for the purpose of sale, barter, or exchange unless the owner of the boat has obtained a commercial fishing boat license and a commercial fishing boat number.

“(b) The fee for a commercial fishing boat license and number is \$10.50 [~~\$6~~]. Fifty [~~Twenty-five~~] cents of the fee may be retained by the issuing officer, except an employee of the department.”

SECTION 28. Subsection (b), Section 47.009, Parks and Wildlife Code, is amended to read as follows:

“(b) The license fee for a wholesale fish dealer’s license is \$400 [~~\$250~~] for each place of business.”

SECTION 29. Section 47.010, Parks and Wildlife Code, is amended to read as follows:

“Section 47.010. Wholesale Truck Dealer’s Fish License. The license fee for a wholesale truck dealer’s fish license is \$250 [~~\$125~~] for each truck.”

SECTION 30. Subsection (b), Section 47.011, Parks and Wildlife Code, is amended to read as follows:

“(b) The license fee for a retail fish dealer’s license is \$30[:

~~“(1) \$6 for each place of business in a city or town of less than 7,500 population according to the last preceding federal census;~~

~~“(2) \$15 for each place of business in a city or town of not less than 7,500 nor more than 40,000 population according to the last preceding federal census; and~~

~~“(3) \$20 for each place of business in a city or town of more than 40,000 population according to the last preceding federal census].”~~

SECTION 31. Subsection (b), Section 47.013, Parks and Wildlife Code, is amended to read as follows:

"(b) The license fee for a retail dealer's truck license is \$50 [~~\$25~~] for each truck."

SECTION 32. Subsection (b), Section 47.014, Parks and Wildlife Code, is amended to read as follows:

"(b) The license fee for a bait dealer's license is \$20 [~~\$10~~] for each place of business."

SECTION 33. Subsection (b), Section 47.015, Parks and Wildlife Code, is amended to read as follows:

"(b) The license fee for a seine or net is \$2 [~~\$1~~] for each 100 feet or fraction of 100 feet of the length of the seine or net."

SECTION 34. Subsections (b) and (d), Section 47.016, Parks and Wildlife Code, are amended to read as follows:

"(b) Applications for a menhaden fish plant license must be submitted on forms prescribed by the department and accompanied by a \$100 [~~\$50~~] filing fee and a certified copy of an order of the commissioners court of the county in which the plant will be located containing:

"(1) a description of the plant and its location; and

"(2) approval of the court for the construction and operation of the plant."

"(d) A menhaden fish plant license shall be issued after a hearing and a finding by the department that the construction and operation of the plant is in the public interest. Regardless of the decision of the department, the [~~\$50~~] filing fee is not refundable."

SECTION 35. Section 48.005, Parks and Wildlife Code, is amended to read as follows:

"Section 48.005. License Fees. The department shall issue a fish farmer's license or a fish farm vehicle license on the payment of \$10 [~~\$5~~] for each license."

SECTION 36. Section 49.003, Parks and Wildlife Code, is amended to read as follows:

"Section 49.003. Apprentice Falconer's Permit. The department may issue an apprentice falconer's permit to any person who:

"(1) is at least 14 years of age;

"(2) is sponsored by the holder of a general falconer's or a master falconer's permit;

"(3) submits an application on forms prescribed by the department; and

"(4) submits a \$30 [~~\$20~~] original permit fee."

SECTION 37. Section 49.004, Parks and Wildlife Code, is amended to read as follows:

"Section 49.004. General Falconer's Permit. The department may issue a general falconer's permit to any person who:

"(1) is at least 18 years of age;

"(2) has at least two years of hunting experience with raptors under an apprentice falconer's permit or its equivalent;

"(3) submits an application on forms prescribed by the department; and

"(4) submits a \$45 [~~\$30~~] original permit fee."

SECTION 38. Section 49.0045, Parks and Wildlife Code, is amended to read as follows:

"Section 49.0045. Master Falconer's Permit. The department may issue a master falconer's permit to any person who:

"(1) is at least 21 years of age;

"(2) has at least five years of hunting experience with raptors under a general falconer's permit or its equivalent;

"(3) submits an application on forms prescribed by the department; and

"(4) submits a \$60 [~~\$40~~] original permit fee."

SECTION 39. Section 49.007, Parks and Wildlife Code, is amended to read as follows:

"Section 49.007. Renewal Fees. The renewal fee for each falconer's permit is \$15 [~~\$10~~]."

SECTION 40. Subsection (b), Section 49.008, Parks and Wildlife Code, is amended to read as follows:

"(b) An applicant for a nonresident falconer's permit must submit an application on forms prescribed by the department and a \$9 [~~\$5~~] permit fee."

SECTION 41. Section 50.002, Parks and Wildlife Code, is amended to read as follows:

"Section 50.002. License Fee. The fee for the combination license shall be set by the commission in an amount that is reasonable to defray administrative costs, but not less than \$12 [~~is \$8.75~~]. Authorized agents of the department, other than employees of the department, may retain \$1 [~~25 cents~~] of the fee as a collection fee."

SECTION 42. Section 51.005, Parks and Wildlife Code, is amended to read as follows:

"Section 51.005. License Fee. The fee for a shellfish culture license is \$50 [~~\$25~~]."

SECTION 43. Section 66.201(g), Parks and Wildlife Code, is amended to read as follows:

"(g) Any person importing, transporting, or selling for resale dead redfish or speckled sea trout taken, caught, or raised in any other state or country, shall obtain a license from the commission. The fee for such license is \$50 [~~\$5~~] per calendar year or part thereof. Such imported fish shall be tagged, packaged, or labeled as provided in this section and in accordance with the regulations of the commission."

SECTION 44. Subsection (c), Section 66.206, Parks and Wildlife Code, is amended to read as follows:

"(c) A trotline tag shall be attached to each 300 feet of trotline or fractional part of 300 feet, and the department shall collect a fee of \$2 [~~\$1~~] for each tag issued."

SECTION 45. Subsection (d), Section 66.211, Parks and Wildlife Code, is amended to read as follows:

"(d) The department shall collect a fee of \$9 [~~\$5~~] for the issuance of the permit."

SECTION 46. Subsection (b), Section 76.017, Parks and Wildlife Code, is amended to read as follows:

"(b) When oysters are sold or marketed from the location and thereafter, the holder of the certificate shall pay to the department \$3 [~~\$2.25~~] per acre of location per year and 10 cents for each barrel of oysters from the location sold."

SECTION 47. Section 76.104, Parks and Wildlife Code, is amended to read as follows:

"Section 76.104. License Fees. (a) The fee for a commercial oyster dredge license is \$50 [~~\$25~~].

"(b) The fee for a sports oyster dredge license is \$10 [~~\$5~~]."

SECTION 48. Subsection (b), Section 77.031, Parks and Wildlife Code, is amended to read as follows:

"(b) The fee for a commercial bay shrimp boat license is \$60 [~~\$40~~]."

SECTION 49. Subsection (b), Section 77.033, Parks and Wildlife Code, is amended to read as follows:

"(b) The fee for a commercial bait-shrimp boat license is \$60 [~~\$40~~]."

SECTION 50. Subsection (b), Section 77.035, Parks and Wildlife Code, is amended to read as follows:

"(b) The fee for a commercial gulf shrimp boat license is \$80 [~~\$50~~]."

SECTION 51. Subsection (b), Section 77.042, Parks and Wildlife Code, is amended to read as follows:

"(b) The fee for a shrimp house operator's license is \$300 [~~\$150~~]."

SECTION 52. Subsection (b), Section 77.043, Parks and Wildlife Code, is amended to read as follows:



"(b) The fee for a bait-shrimp dealer's license is \$60 [~~\$40~~]."

SECTION 53. Subsection (b), Section 77.048, Parks and Wildlife Code, is amended to read as follows:

"(b) The fee for the individual bait-shrimp trawl license is \$10 [~~\$5~~]."

SECTION 54. Section 78.003, Parks and Wildlife Code, is amended to read as follows:

"Section 78.003. License Fee. The license fee is \$20 [~~\$10~~], payable to the department, with an additional \$45 [~~\$25~~] fee for permission to use a dredge."

SECTION 55. Subsection (b), Section 47.005, Parks and Wildlife Code, is amended to read as follows:

"(b) The license fee for a fish boat license is \$10.50 [~~\$3~~]."

SECTION 56. Sections 42.006, 42.007, 42.008, 42.015, 42.016, 43.049, 43.257, 47.006, 47.012, 48.007, 61.208, and 258.032, Parks and Wildlife Code, are repealed.

SECTION 57. (a) A retail oyster dealer's license in existence on the effective date of this Act is converted into a retail fish dealer's license subject to the provisions of Section 47.011, Parks and Wildlife Code, as if the license had originally been issued under that section as amended by this Act. Such a license expires on the date it would have expired had this Act not been in effect.

(b) The Parks and Wildlife Department shall treat an application for an original or renewal retail oyster dealer's license that is pending on the effective date of this Act as an original or renewal application for a retail fish dealer's license. Such an application is sufficient if it was sufficient according to the law that governed it at the time the application was made, or if it is sufficient under the Parks and Wildlife Code as it exists after this Act takes effect, except that the department shall require the applicant to submit any additional state fee that may be due before issuance of the original or renewal permit.

SECTION 58. This Act takes effect September 1, 1983, and applies to fees imposed under the Parks and Wildlife Code and to arrest fees imposed under the Code of Criminal Procedure, 1965, on or after that date. The fee for a license issued or renewed before that is covered by the law in effect on the date that the license was issued or renewed, and the prior law is continued in effect for that purpose.

SECTION 59. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### MESSAGE FROM THE HOUSE

House Chamber  
May 28, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 482**. House Conferees: Messer, Chairman; Gibson, Russell, Short, Word and Keller.

The House has refused to concur in Senate amendments to **H.B. 1959** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Messer, Chairman; Gibson, Denton, Glossbrenner and Saunders.

The House has adopted the Conference Committee Report on **H.B. 642** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 294** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 1190** by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

### HOUSE BILL 1277 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1277**, Relating to an administrative penalty for violation of laws, safety standards, and regulations relating to transportation of gas and gas pipeline facilities.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Amend **H.B. 1277** by deleting Sub-Section (j), (k), and (l) and inserting, in lieu thereof, the following:

(j) Within the 30-day period immediately following the day on which the decision or order is final as provided in Article 6252-13a, Section 15 (c), Vernon's Annotated Texas Civil Statutes, as amended, the person charged with the penalty shall:

(1) pay the penalty in full, or  
(2) if the person seeks judicial review of either the amount of the penalty or the fact of the violation, or both:

(A) forward the amount to the commission for placement in an escrow account, or

(B) in lieu of payment into escrow, post with the commission a supersedeas bond in a form approved by the commission for the amount of the penalty, such bond to be effective until all judicial review of the order or decision is final.

(k) If through judicial review of the decision or order it is determined that no violation occurred or that the amount of the penalty should be reduced or not assessed, the commission shall, within the 30-day period immediately following that determination, if the penalty has been paid to the commission, remit the appropriate amount to the person, with accrued interest, or where a supersedeas bond has been posted, the commission shall execute a release of such bond.

(l) Failure to forward the money to the railroad commission or post bond within the time provided by Section (j) of this article results in a waiver of all legal rights to contest the violation or the amount of the penalty.

The amendment was read and was adopted.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

**HOUSE BILL 1277 ON THIRD READING**

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1277 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

**MOTION TO SUSPEND SENATE RULE 74a**

Senator Mauzy moved to suspend Senate Rule 74a as it relates to the House amendment to S.B. 480.

The motion failed by the following vote: Yeas 20, Nays 11. (Not receiving two-thirds vote of the Members present)

Yeas: Blake, Brooks, Doggett, Farabee, Glasgow, Lyon, Mauzy, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Caperton, Edwards, Harris, Henderson, Howard, Jones, Kothmann, Leedom, McFarland, Montford.

**CONFERENCE COMMITTEE REPORT  
SENATE BILL 960**

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas  
May 28, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 960 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

McFARLAND

TRAEGER

HOWARD

SIMS

SHARP

On the part of the Senate

C. EVANS

KELLER

PENNINGTON

SHAW

RUDD

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the regulation of obstructions to air navigation and of taxicabs serving certain airports.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 3A, Revised Statutes, is amended by adding Articles 46i-1 through 46i-9 to read as follows:

Art. 46i-1. SHORT TITLE. This Act (Articles 46i-1 through 46i-9) may be cited as the Obstruction to Air Navigation Control Act.

Art. 46i-2. DEFINITIONS. In this Act:

(1) "Airport" means a publicly or privately owned airport with a paved runway that is open for use by the general public to licensed aircraft and that does not require prior approval of the owner for use or an airport operated by the armed forces of the United States or by the Texas National Guard. The term does not include a heliport, balloon port, ultralight aircraft port, glider port, or a facility that is used solely for recreational activities.

(2) "Obstruction to airport use" means a structure that, due to its height or location, prevents or hinders safe and efficient use of airspace and proper air navigation required by aircraft in the use of airports in this state, including takeoffs, landings, and flight between airports.

(3) "Structure" means a mobile or permanent object, constructed or installed by man, including but not limited to a building, tower, smokestack, or overhead transmission line.

(4) "Traverse way" means an avenue for surface transportation used by vehicles whose height may create an obstruction to air navigation. The term includes without limitation railways, roads, streets, highways, bridges, rivers, canals, lakes, and channels.

(5) "Paved runway" means a hard surface area that has been prepared for the landing and takeoff of registered aircraft under all weather conditions. The term does not include a surface composed of turf, dirt, or noncompacted materials.

Art. 46i-3. FUND. The aviation trust fund is created as a special fund in the state treasury. The Texas Aeronautics Commission shall administer the fund and may accept donations and contributions for deposit in the fund from private sources and entities. The commission may use the aviation trust fund in the performance of its functions related to aviation safety, including but not limited to the prevention of obstructions to flight.

Art. 46i-4. APPLICATION FOR PERMIT. (a) A person who plans to construct, position, erect, or replace a structure, or increase the height of an existing mobile or permanent structure, must apply to the commission for a permit before beginning the construction, positioning, erection, placement, or alteration if the structure as planned:

(1) will exceed 200 feet in height above ground level at its site;

(2) will penetrate an imaginary surface extending upward and outward from the nearest point of the nearest runway of each airport with at least one paved runway at a slope of 100 horizontal feet to one vertical foot for a distance of 20,000 horizontal feet; or

(3) would be used as a traverse way for mobile objects of a height that would exceed a standard of Subdivisions (1) and (2) of this subsection, if adjusted upward 17 feet for an interstate highway where overcrossings are designed for a minimum of 17 feet vertical distance; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally use the road, whichever is greater, for a private road; 23 feet for a railroad; and for a waterway or any other traverse way, an amount equal to the height of the highest mobile object that would normally traverse it.

(b) Each permit application filed with the commission must be accompanied by a filing fee of \$200 to be retained by the commission to defray administrative expenses. Funds remaining after payment of administrative expenses shall be deposited in the aviation trust fund.

(c) The permit application must contain:

(1) a detailed description and accurate drawing to scale of the proposed structure or alteration;

(2) the proposed location of the structure by county and geographical coordinates in degrees, minutes, and seconds as accurately located by a United States Geological Survey 7.5 Minute Quadratic Map, or its equivalent;

(3) the height of the structure above ground level at the site and above mean sea level;

(4) the name, business address, and telephone number of the applicant, including the names and addresses of corporate officers if the applicant is a corporation, and the names and addresses of all general partners if a partnership; and

(5) the estimated date of completion of the structure.

Art. 46i-5. COMMISSION DETERMINATION. (a) Not later than the 60th day after the application is accepted for filing, the commission shall grant or deny a permit. A political subdivision that owns an airport, the private owner of an airport, or both, if appropriate, and the operator of a military airport that would be affected by a structure for which a permit is required shall be notified of the filing of a permit application and may submit information and participate as a party throughout the permitting process. The commission may accept information from other persons it considers to have a sufficient interest in the application. In determining whether to grant or deny a permit, the commission shall consider:

(1) the height of the existing terrain and structures in the area that might shield the proposed construction or alteration in such a way that the structure would not be an obstruction to air navigation;

(2) the character of flying operations and existing or planned airports in the area;

(3) whether the proposed construction or alteration would cause an increase in the minimum clearance altitude of an established airway or airport maneuvering area or would cause an increase to instrument approach and landing minimums at an airport;

(4) public and private interests and investments in both the proposed structure and in the airport or airway that might be affected by the structure;

(5) the safety of persons on the ground and in the air; and

(6) any other relevant factors.

(b) A presumption that a proposed structure will create an obstruction to airport use arises if the structure:

(1) will exceed a height of 500 feet above ground level at the site of the object;

(2) will be 200 feet above ground level or above the established airport elevation, whichever is higher, within three nautical miles of the established reference point of an airport with a paved runway or within three nautical miles of an airport approach fix, and that height increases in the proportion of 100 feet for each additional nautical mile of distance from the airport or approach fix up to a maximum height of 500 feet;

(3) will be within a federally designated terminal control area or a terminal object clearance area, including an initial approach segment, a departure area, and a circling approach area, that would require an increase in the minimum obstacle clearance altitude for an approach to, or the instrument landing minimums for, any area airport;

(4) would increase the minimum obstacle clearance altitude within an en route obstacle clearance area, including turn and termination areas, or of a federal airway or approved off-airway route; or

(5) would penetrate the takeoff and landing area of an airport or any imaginary surface established under Federal Aviation Regulation Part 77, Sections 77.25, 77.28, and 77.29.

(c) A mobile object that operates under the control of an airport control tower, under the permission of the airport sponsor, or outside the takeoff or landing area clear zones, for a period not to exceed 60 days, is not an obstruction.

Art. 46i-6. EXEMPTIONS. This Act does not apply to:

(1) a tower or other structure for which a Federal Communications Commission construction permit, license, or authorization is required;

(2) a structure that before September 1, 1984, received a determination of no hazard by the Federal Aviation Administration under Part 77 of the Federal Aviation Regulations, as amended (14 Code of Federal Regulations, Part 77);

(3) a structure located within the boundaries of a municipality, city, town, village, or county that has enacted airport zoning or other ordinances regulating obstructions to airport use in any part of the municipality, city, town, village, or county;

(4) a structure located on an airport with the airport owner's written consent;

(5) a structure the construction of which was commenced before September 1, 1984; or

(6) a structure within or beneath the terminal control area of an airport that is located in more than one county and is operated by a board composed of city officials of two or more cities.

Art. 46i-7. PERMITS. If the commission determines that the public interest will be served and that the proposed construction or alteration will not be an obstruction to air navigation, the commission shall grant a permit for the proposed construction or alteration. In granting a permit, the commission may require lighting or other marking of the structure that it determines to be reasonably necessary for safe air navigation.

Art. 46i-8. HEARINGS; APPEALS; ENFORCEMENT. (a) If a permit application is denied by the commission, the commission shall notify the applicant of the denial by certified mail, return receipt requested, at the address shown in the application not later than the 60th day after the day the application is accepted for filing. The determination of existence of an obstruction to air navigation is final 30 days after the notice required under this paragraph is mailed, unless the applicant files a written request for a public hearing not later than the 30th day after the day the notice is mailed. The commission shall include in the notice of denial the reasons for the denial and a copy of all documentation on file concerning the application. On receipt of a request for a hearing the commission shall set a date for hearing and notify all interested parties of the hearing. The hearing and any appeal shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) If the commission learns or has reasonable grounds to believe that any person is positioning, erecting, or altering a structure subject to the provisions of this Act for which an application for a permit has not been filed, it may on its own motion issue an order to the person to appear before the commission and show cause why an application for a permit to position, erect, or alter the structure need not be obtained. The order must require the person to cease construction and preparation of the structure pending determination of the need for a permit by the commission. A date for a hearing shall be set out in the order.

(c) In addition to any other remedy, the commission may institute in a district court in Travis County an action to prevent, restrain, correct, or abate a violation of this Act or of a rule adopted or order issued under this Act. The court may grant the necessary relief by way of injunction or otherwise.

(d) A person who violates this Act or a rule adopted under this Act is subject to a civil penalty not to exceed \$500 for each day of the violation. The penalty may be recovered in a court of competent jurisdiction in the county in which the violation occurs or in a district court of Travis County. Suit for the penalty may be instituted and conducted by the attorney general or by the county or district attorney in the county in which the violation occurs. On violation of this Act, of any rule adopted under this Act, or of an order of the commission, the district court of the county in which the violation occurs may issue an injunction to prevent further violation. Bond is not required if the relief is sought by the commission, the attorney general, or a district or county attorney.

Art. 46i-9. RULEMAKING AUTHORITY; FORMS. (a) The commission shall adopt rules for the administration and enforcement of this Act.

(b) The commission shall prescribe and furnish the forms necessary for the administration of this Act.

SECTION 2. Subsection (d), Section 14, Municipal Airports Act (Article 46d-14, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (6) and (7) to read as follows:

(6) Taxicab Licensing. Notwithstanding any contrary provisions in H.B. 593, Acts of the 68th Legislature, Regular Session, 1983, a joint municipal airport authority established pursuant to Chapter 114, Acts of the 50th Legislature, 1947 (Article 46d-1 et seq., Vernon's Texas Civil Statutes), shall have power to license taxicabs picking up passengers at or delivering passengers to the airport.

(7) Regulations. Any resolutions, rules, regulations, or orders of the joint board dealing with subjects authorized by Subdivision (6) of this subsection become effective only upon approval of the governing bodies of the constituent public agencies. Upon the approval, the resolutions, rules, regulations, or orders of the joint board have the same force and effect in the territories or jurisdictions involved as the ordinances, resolutions, rules, regulations, or orders of each public agency would have in its own territory or jurisdiction.

SECTION 3. A person is not required to obtain a permit under Section 1 of this Act until September 1, 1984.

SECTION 4. This Act takes effect September 1, 1983.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

### BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.B. 2006	H.B. 1845	S.C.R. 107
H.B. 2032	H.B. 1849	S.C.R. 115
H.B. 2077	H.B. 1883	S.C.R. 117
H.B. 2083	H.B. 1884	S.C.R. 124
H.B. 2106	H.B. 1936	S.B. 22
H.B. 2119	H.B. 1954	S.B. 79
H.B. 2135	H.B. 1970	S.B. 134
H.B. 2140	H.B. 1981	S.B. 155
H.B. 2143	H.B. 1991	S.B. 277
H.B. 2228	H.B. 2005	S.B. 381
H.B. 2245	S.C.R. 35	S.B. 397
H.B. 2292	S.C.R. 52	S.B. 446
H.B. 2305	S.C.R. 63	S.B. 554
H.B. 2313	S.C.R. 67	S.B. 622
H.B. 2335	S.C.R. 69	S.B. 635
H.B. 2343	S.C.R. 70	S.B. 688
H.B. 2365	S.C.R. 71	S.B. 787
H.B. 2371	S.C.R. 72	S.B. 800
H.B. 1706	S.C.R. 82	S.B. 860
H.B. 1707	S.C.R. 83	S.B. 997
H.B. 1731	S.C.R. 84	S.B. 1019

H.B. 1732	S.C.R. 85	S.C.R. 140
H.B. 1741	S.C.R. 86	S.J.R. 1
H.B. 1748	S.C.R. 87	S.B. 147
H.B. 1778	S.C.R. 88	S.B. 866
H.B. 1792	S.C.R. 89	
H.B. 1818	S.C.R. 93	
H.B. 1838	S.C.R. 98	
H.B. 1840	S.C.R. 101	

#### COMMITTEE SUBSTITUTE HOUSE BILL 2233 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 2233**, Relating to housing finance corporations and the issuance of revenue bonds in order to carry out the purposes of the Act.

The bill was read second time.

#### POINT OF ORDER

Senator Vale raised the Point of Order against further consideration of the bill because it violates provisions of the Constitution.

The President sustained the Point of Order.

#### MOTION TO PLACE HOUSE BILL 831 ON SECOND READING

Senator Truan moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 831**, Relating to a tuition exemption for high-ranking graduates of a public junior college.

Question - Shall the regular order of business be suspended?

#### MOTION TO RECESS

Senator Parker moved that the Senate stand recessed until 8:30 o'clock a.m. tomorrow.

The motion was lost by the following vote: Yeas 3, Nays 27.

Yeas: Farabee, Parker, Williams.

Nays: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire.

Absent: Washington.

#### MOTION TO PLACE HOUSE BILL 831 ON SECOND READING

The Senate resumed consideration of **H.B. 831** on its second reading and passage to third reading.

Question - Shall the regular order of business be suspended?

Senator Truan moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 831**, Relating to a tuition exemption for high-ranking graduates of a public junior college.



The motion was lost by the following vote: Yeas 13, Nays 17.

Yeas: Caperton, Doggett, Edwards, Kothmann, Mauzy, Montford, Parmer, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Blake, Brooks, Brown, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, Lyon, McFarland, Parker, Santiesteban, Sarpalius, Sharp, Sims.

Absent: Washington.

### COMMITTEE SUBSTITUTE HOUSE BILL 1580 ON THIRD READING

On motion of Senator Jones and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

**C.S.H.B. 1580**, Relating to a taxpayer's remedies in the judicial review of certain property tax determinations.

Question - Shall the bill be passed to third reading?

The bill was read third time and was finally by the following vote: Yeas 31, Nays 0.

### HOUSE BILL 1769 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1769**, Relating to imposition of a fee by the Texas Department of Water Resources to be used to pay expenses of inspection of waste treatment facilities.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

Amend Section 1 of **H.B. 1769** by deleting underlined Subsection (b), page 1, and substituting the following in lieu thereof:

(b) The board, by rule, shall adopt a fee schedule for determining the amount of the fee to be charged. The amounts of the fees in such schedule shall be proportional to the average volume of discharge specified in the permit, beginning at \$100 for a zero discharge or small discharge, and a maximum of \$2,000 for the largest average volume of discharge in the state. The annual fee to be charged each permittee shall be that set by the fee schedule adopted by the board.

The committee amendment was read and was adopted.

Senator Traeger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1769** as follows: (1) Add appropriately numbered sections as follows:

SECTION . Title 4, Water Code, is amended by adding Chapter 65 to read as follows:

### **CHAPTER 65. SPECIAL UTILITY DISTRICTS** **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 65.001. **DEFINITIONS.** In this chapter:

(1) "District" means a special utility district operating under this chapter.

- (2) "Board" means the board of directors of a district.
- (3) "Director" means a member of the board of directors of a district.
- (4) "Commission" means the Texas Water Commission.
- (5) "Executive director" means the executive director of the Texas Department of Water Resources.

(6) "Public agency" means any city, the United States and its agencies, the State of Texas and its agencies, and any district or authority created under Article XVI, Section 59, or Article III, Sections 52(b)(1) and (2), of the Texas Constitution.

(7) "City" means any incorporated city or town.

(8) "Extraterritorial jurisdiction" means the extraterritorial jurisdiction of a city as defined in the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes).

(9) "Sole expense" means the actual cost of relocating, raising, lowering, rerouting, changing grade, or altering the construction to provide comparable replacement without enhancing the facility, after deducting the net salvage value derived from the old facility.

(10) "Water supply corporation" means any member-owned, consumer-owned water supply corporation created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), that on or before January 1, 1983, was providing the services of a water supply corporation under a certificate of convenience and necessity issued by the Public Utility Commission of Texas.

**[Sections 65.002-65.010 reserved for expansion]**

#### **SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT**

**Sec. 65.011. CREATION OF DISTRICT.** A special utility district may be created under and subject to the authority, conditions, and restrictions of, and is considered a conservation and reclamation district under Article XVI, Section 59, of the Texas Constitution.

**Sec. 65.012. PURPOSES OF DISTRICT.** A district may be created for the following purposes:

(1) to purchase, own, hold, lease, and otherwise acquire sources of water supply; to build, operate, and maintain facilities for the transportation of water; and to sell water to towns, cities, and other political subdivisions of this state, to private business entities, and to individuals;

(2) the establishment, operation, and maintenance of fire-fighting facilities to perform all fire-fighting activities within the district; and

(3) the protection, preservation, and restoration of the purity and sanitary condition of water within the district.

**Sec. 65.013. COMPOSITION OF DISTRICT.** (a) A district may include the area in all or part of any one or more counties including all or part of any cities and other public agencies.

(b) The land composing a district is not required to be contiguous, but may consist of separate bodies of land separated by land that is not included in the district.

**Sec. 65.014. CERTIFIED RESOLUTION SEEKING CREATION OF DISTRICT.** (a) If creation of a district is proposed by a water supply corporation, a certified copy of a resolution requesting creation must be filed with the commission.

(b) The resolution shall be signed by the president and secretary of the board of directors of a water supply corporation and shall state that the water supply corporation, acting through its board of directors, has found that it is necessary and desirable for the water supply corporation to be converted into a district.

**Sec. 65.015. CONTENTS OF RESOLUTION.** In addition to the requirements stated in Section 65.014 of this code, the resolution shall:

(1) describe the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area, or by any other commonly recognized means in a certificate attached to the resolution executed by a registered professional engineer; "

(2) state the general nature of the services presently performed by the water supply corporation, the general nature of the services proposed to be provided by the district, and the necessity for the services provided by the district;

(3) include a name of the district that is generally descriptive of the location of the district followed by the words special utility district, but may not be the same name as any other district in the same county; and

(4) the names of not less than five and not more than 11 qualified persons to serve as the initial board of directors of the district.

Sec. 65.016. CONSENT OF CITY. A district may operate within the corporate limits of a city or within the extraterritorial jurisdiction of a city, provided that a city may require that the district construct all facilities to serve the land in accordance with plans and specifications that are approved by the city. The city may also require that the city be entitled to inspect facilities being constructed by a district within the corporate limits or extraterritorial jurisdiction of the city.

Sec. 65.017. DEPOSIT. (a) A resolution filed with the commission must be accompanied by a deposit of \$250 that is paid to the commission for use by the state, and no part of the deposit may be returned except as provided by Subsection (d) of this section.

(b) The deposit shall be deposited with the state treasurer to be held in a special trust account until the commission either grants or denies the request to allow the water supply corporation to convert into a district.

(c) On granting or denying the request, the commission shall direct the state treasurer to transfer the deposit from the special trust account to the general revenue fund.

(d) If at any time before the hearing on the resolution the board of directors that submitted the resolution desires to withdraw the resolution, the commission shall direct the refund of the deposit to the board of directors or to its attorney of record, whose receipt for the deposit is sufficient evidence of refund.

Sec. 65.018. ESTABLISHING DATE OF HEARING. (a) On the filing of a resolution, the commission shall set a date, time, and place at which the resolution will be heard and shall issue notice of the date, time, and place of hearing.

(b) The notice shall inform all persons of their right to appear and present evidence and testify for or against the material included in the resolution, the form of the resolution, the necessity and feasibility of the water supply corporation's request for conversion, and the benefits to accrue from conversion.

Sec. 65.019. NOTICE OF HEARING. (a) Notice of the hearing must be published in a newspaper with general circulation in each county in which the district is located once a week for two consecutive weeks. The first publication must be at least 14 days before the date set for the hearing.

(b) Notice of the hearing shall also be given by mailing a copy of the notice to the Public Utility Commission of Texas and to each city that has extraterritorial jurisdiction in a county in which the proposed district is to be located and that has formally requested notice of the creation of all districts in that county.

(c) The request by a city for notice of any hearing on the creation of a district must be filed annually with the commission during January. The request shall state the names of not more than two persons who are to receive the notice on behalf of the city and the mailing addresses of those persons.

(d) A certificate of a representative of the commission that shows notice was mailed to each city that has extraterritorial jurisdiction in a county in which the proposed district is to be located and that has formally requested notice is conclusive evidence that notice was properly mailed to each city.

Sec. 65.020. HEARING. (a) At the hearing, the commission shall examine the resolution to determine if it is sufficient, and any person interested may appear before the commission in person or by attorney and offer testimony on the sufficiency of the resolution and whether or not the request for conversion is feasible and practicable and is necessary and would be a benefit to all or any part of the land proposed to be included in the district.

(b) The commission has jurisdiction to determine all issues on the sufficiency of the resolution and the creation of the district.

(c) The hearing may be adjourned from day to day, and the commission may make all incidental orders necessary with respect to the matters before it.

Sec. 65.021. GRANTING OR REFUSING CREATION OF DISTRICT. (a) After the hearing on the resolution, if the commission finds that the resolution conforms to the requirements of Section 65.015 of this code and that the request for conversion is feasible and practicable and is necessary and would be a benefit to the land proposed to be included in the district, the commission shall make these findings in an order and shall authorize the creation of the district on approval at the confirmation and directors' election called and held under this subchapter.

(b) In determining if the request for conversion is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider:

(1) the availability of comparable service from other systems, including water districts, municipalities, and regional authorities;

(2) the reasonableness of projected construction costs, if any, tax rates, and water and sewer rates; and

(3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:

(A) land elevation;

(B) subsidence;

(C) groundwater level within the region;

(D) recharge capability of a groundwater source;

(E) natural runoff rates and drainage; and

(F) water quality.

(c) If the commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district, the commission shall formally make this finding and shall exclude all land that is not benefited from the proposed district and shall redefine the proposed district's boundaries accordingly.

(d) If the commission finds that the resolution does not conform to the requirements of Section 65.015 of this code or that the request for conversion is not feasible, practicable, necessary, or a benefit to the land in the district, the commission shall make this finding in its order and shall deny the creation of the district.

(e) A copy of the order of the commission granting or denying the request for conversion stated in the resolution must be mailed to each city that has extraterritorial jurisdiction in a county in which the proposed district is located and that requested notice of hearing as provided by Section 65.019 of this code.

Sec. 65.022. TEMPORARY DIRECTORS. If the commission authorizes the creation of the district, it shall appoint those persons whose names are listed in the resolution filed with the commission by the water supply corporation to serve as temporary directors until initial directors are elected as provided by this subchapter.

Sec. 65.023. APPEAL FROM ORDER OF COMMISSION. A city or a person who appeared in person or by attorney and offered testimony for or against the creation of the district, may appeal from the order of the commission authorizing or refusing the creation of the district. The appeal must be made within 30 days after the entry of the order.

Sec. 65.024. QUALIFICATION AND ORGANIZATION OF TEMPORARY DIRECTORS. On appointment, each temporary director shall execute his bond as provided by Section 65.116 of this code and shall take his oath of office, and the board shall meet and organize.

Sec. 65.025. CONFIRMATION AND DIRECTORS' ELECTION. On the first available uniform election date following the commission's order approving creation of the district, an election must be held within the boundaries of the proposed district to determine if the proposed district will be created and to elect initial members to the board of directors.

Sec. 65.026. NOTICE OF CONFIRMATION AND DIRECTORS' ELECTION. (a) The temporary board shall give notice of the confirmation and directors' election.

(b) The notice must include the date and place or places for holding the election, the creation proposition, and a statement that directors are to be elected for the district.

(c) The notice must be published once a week for two consecutive weeks in a newspaper with general circulation in each county in which the proposed district is to be located. The first publication of notice must be at least 14 days before the date set for the election.

Sec. 65.027. ELECTION BALLOT. (a) The ballot for the election shall be printed to provide for voting for or against: "Creation of the district."

(b) The names of the temporary directors shall be printed on the ballot as candidates for membership on the board.

(c) Each person voting at the election may vote for not more than a total number of candidates that is equal to the number of persons that are serving on the temporary board.

Sec. 65.028. ELECTION RESULTS. (a) Immediately after the confirmation and director's election, the presiding judge for each voting place shall make returns of the results of the election to the temporary board.

(b) The temporary board shall canvass the returns and, by order, shall declare the results of the election at the earliest practicable time.

(c) If a majority of the qualified voters voting at the election votes to create the district, the temporary board shall declare the district created. If a majority of the qualified voters voting at the election votes against creation of the district, the temporary board shall declare the district not to be created.

(d) If the temporary board declares the district created, it shall also declare to be elected as the initial directors of the district the appropriate number of persons receiving the highest number of votes. The appropriate number is the number of members of the temporary board.

(e) The temporary board shall file a copy of its order declaring the election results in its minutes and also shall file copies with the executive director and in the deed records of each county in which the district is located or was to be located.

Sec. 65.029. SUPERVISION BY COMMISSION. The rights, powers, privileges, authority, and functions conferred on a district by creating the district are subject to the continuing right of supervision of the state to be exercised by and through the commission and the executive director.

**[Sections 65.030-65.100 reserved for expansion]**

#### **SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

Sec. 65.101. BOARD OF DIRECTORS. A district is governed by a board of not less than five and not more than 11 directors.

Sec. 65.102. QUALIFICATIONS FOR DIRECTORS. To be qualified to serve as a director, a person must be:

- (1) at least 18 years old;
- (2) a resident citizen of this state; and

(3) either own land subject to taxation in the district, be a user of the facilities of the district, or be a qualified voter of the district.

Sec. 65.103. ELECTION OF DIRECTORS; TERMS OF OFFICE. (a) The persons receiving the highest number of votes at each election shall serve as directors of the district.

(b) The terms of the directors may run concurrently, or may be staggered, but in any event, the term of office of a director may not exceed three years.

(c) The method for determining the initial terms for each of the directors constituting the initial board shall be determined by the temporary directors, and the terms must be clearly stated on the ballot for the confirmation and directors' election. At subsequent elections in each following year in which there is an election, the election must be held on the same uniform election date as the confirmation and directors' election, and the terms of the directors being elected must be stated on the ballot.

(d) The election of directors must be held in a district on one of the dates provided by Section 9b, Texas Election Code (Article 2.01b, Vernon's Texas Election Code).

(e) The permanent directors may assign a position number to each director's office, and each director subsequently shall be elected by position and not at large.

Sec. 65.104. APPLICATION TO GET ON BALLOT. (a) Except for the first elected board of directors, a candidate for the office of director must file with the secretary of the board of directors or any agent who may be designated by the board his application to have his name printed on the ballot.

(b) An application must be signed by a candidate or by 10 qualified voters of the district and must be filed at least 31 days before the election.

Sec. 65.105. VACANCIES ON BOARD. (a) A vacancy in the office of director or any office on the board shall be filled by appointment of the board for the unexpired term.

(b) If at any time the number of qualified directors is less than three because of the failure or refusal of one or more directors to qualify or serve, because of death, or incapacitation, or for any other reason, the commission, on the petition of any landowner in the district, shall appoint the necessary number of directors to fill vacancies on the board.

Sec. 65.106. ORGANIZATION OF BOARD; ELECTION OF OFFICERS. After the issuance of the order by the commission creating the district, and after the directors elected at each election have qualified by executing a bond and taking the oath of office, the board shall organize by electing a president, a vice-president, a secretary, and any other officers that are considered necessary by the board.

Sec. 65.107. QUORUM; OFFICERS' DUTIES. (a) A majority of the directors constitutes a quorum for the transaction of business, and each director is entitled to a vote.

(b) The district shall act and proceed by and through resolutions adopted by the board, and the affirmative vote of a majority of the directors present is necessary to adopt a resolution.

(c) The president shall preside at all meetings of the board and is the chief executive officer of the district. The vice-president shall act as president in the absence or on disability of the president.

(d) The secretary shall act as president if both the president and vice-president are absent or disabled. The secretary shall act as secretary of the board and is responsible for the proper keeping of records, books, and accounts of the district.

(e) The board may appoint a director, the general manager, or an employee as assistant or deputy secretary to assist the secretary, and that person is entitled to certify the authenticity of any record of the district, including proceedings relating to bonds, contracts, or indebtedness of the district.

Sec. 65.108. BYLAWS. The board may adopt bylaws to govern:

- (1) the time, place, and manner of conducting its meetings;
- (2) the powers, duties, and responsibilities of its officers and employees;
- (3) the disbursement of funds by checks, drafts, and warrants;
- (4) the appointment and authority of director committees;
- (5) the keeping of records, books, and accounts; and
- (6) other matters that the board considers appropriate.

Sec. 65.109. MEETINGS AND NOTICE. (a) The board may establish regular meetings to conduct district business and may hold special meetings at other times as the business of the district requires.

(b) The board shall hold its meetings within the district unless the board by a majority vote at a public meeting votes to hold the meetings outside the district.

(c) Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), is applicable to meetings of the board of directors.

Sec. 65.110. DISTRICT OFFICE AND MEETING PLACE. (a) The board shall designate and establish a district office and meeting place within the district, and the board may also establish a meeting place outside the district. Either or both district meeting places may be a private residence or office provided the board in its order establishing the meeting place declares it to be a public place and invites the public to attend any meeting of the board.

(b) If the board established a meeting place outside the district, it shall give notice of the location by filing a copy of the resolution establishing the location of the district office with the commission and also by publishing notice of the location in a newspaper of general circulation in each county in which the district is located. If the location of the meeting place outside the district is changed, notice of the change must be given in the same manner.

Sec. 65.111. MANAGEMENT OF DISTRICT. (a) The board of directors shall have control over and management of all the affairs of the district and shall employ all persons considered necessary by the board for the conduct of the affairs of the district, including engineers, attorneys, financial advisors, a general manager, a utility operator, bookkeepers, auditors, and secretaries.

(b) The board shall determine the terms of service and the compensation of employees and consultants by contract or by resolution of the board.

(c) Employees may be dismissed by the board or the designated manager of the district.

(d) The board may require a bond of any officer or employee payable to the district and conditioned on the faithful performance of his duties.

Sec. 65.112. SUPPLIES. The board is entitled to purchase all materials, supplies, equipment, vehicles, and machinery needed by the district.

Sec. 65.113. SEAL. The directors shall adopt a seal for the district.

Sec. 65.114. FEES OF OFFICE. (a) Each director is entitled to receive as fees of office not less than \$25 nor more than \$100 per month for each month of service as determined by the board.

(b) The fees may not exceed \$100 in any one month regardless of the number of days of necessary service during that month.

(c) On approval by the board, a director may be reimbursed for travel or other expenses incurred on behalf of the district on presentation to the board of a verified statement.

Sec. 65.115. DIRECTOR NOT TO BE EMPLOYEE OF DISTRICT. A director may not be employed by the district.

Sec. 65.116. BOND AND OATH OF OFFICE. (a) Each director shall take the oath of office prescribed by the constitution for public officers.

(b) As soon as practicable, each director appointed as an officer shall execute a bond in an amount established by the board payable to the district and

conditioned on the faithful performance of his duties as stated in the bylaws of the district.

(c) Each bond of a director must be approved by the board.

(d) The bond and oath must be filed with the district and retained in its records.

Sec. 65.117. RECORDS. (a) Original minutes and orders of the board, construction contracts and related instruments, bonds of the district's board, and bonds of the district's officers and employees shall be kept in a safe place and maintained as permanent records of the district.

(b) Minutes and orders of the board may not be destroyed.

(c) All records necessary for the district's annual audits and necessary to comply with the terms of its bond orders or resolutions must be retained for at least one full year after the expiration of the preceding fiscal year.

(d) A district contract, other than a construction contract, and the records relating to it must be retained for at least four years after the performance of the contract.

(e) Except as specifically provided by this section, a district's records may be destroyed if the board determines that the records are no longer needed or useful. If district records are to be destroyed, the board shall designate the person to destroy them and the manner of the destruction. If the board considers it advisable, it may have any instruments to be destroyed inventoried or microfilmed before they are destroyed.

Sec. 65.118. SUITS. (a) A district created under this chapter is a governmental agency and a body politic and corporate and is declared to be a defined district within the meaning of Article XVI, Section 59, of the Texas Constitution, and may, through its directors, sue and be sued in any court of this state in the name of the district. Service of process in a suit may be accomplished by serving any two directors.

(b) The courts of this state shall take judicial notice of the establishment of any districts.

Sec. 65.119. CONTRACTS. A district shall contract and be contracted with in the name of the district.

Sec. 65.120. ELECTIONS. (a) Unless otherwise provided, notice of an election ordered by the board shall be given by publication once a week for two consecutive weeks with the first publication in a newspaper with general circulation in each county in which a district is located for at least 14 days before the date of the election.

(b) Notice of the election also shall be posted in two public places in the district at least 14 days before the date of the election.

(c) Each clerk for absentee voting is not required to be a resident or qualified voter in the district.

Sec. 65.121. EMPLOYEE BENEFITS. (a) The board may provide for and administer a retirement, disability, and death compensation fund for the officers and employees of the district, and may adopt plans to carry out the purpose of this section, including the forms of insurance and annuities that are considered advisable by the board. The board, after notice to the employees and a hearing, may change any plan or rule.

(b) Money provided from the compensation of the officers and employees participating in the fund and plan authorized by this section and by the district for the retirement, disability, and death compensation fund, after the money has been received by the district, shall be invested as the board considers advisable.

(c) The money may be invested in the following manner:

(1) in bonds of the United States, this state, any county, city, or other political subdivision of this state, or in bonds issued by any agency of the United States, the



payment of the principal of and interest on which is guaranteed by the United States; and

(2) in life insurance policies, endowment or annuity contracts, or interest-bearing certificates of legal reserve life insurance companies authorized to write those contracts in this state.

(d) A sufficient amount of the money shall be kept on hand to meet the immediate payment of amounts likely to become due each year out of the fund as determined by the board.

(e) The recipients or beneficiaries from the fund are not eligible for any other pension, retirement fund, or direct aid from this state, unless the fund created under this section is released to this state as a condition precedent to receiving the other pension, aid, or membership in any other system.

(f) The board may include hospitalization and medical benefits to their officers and employees as part of the compensation currently paid to the officers and employees and may adopt any plan, rule, or regulation in connection with it and amend or change the plan, rule, or regulation as it may determine.

Sec. 65.122. WORKERS' COMPENSATION. The board may also become a subscriber under the workers' compensation law.

[Sections 65.123-65.200 reserved for expansion]

#### **SUBCHAPTER D. GENERAL POWERS AND DUTIES**

Sec. 65.201. POWERS. (a) A district has the functions, powers, authority, and rights that will permit accomplishment of the purposes for which it is created.

(b) A district may purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes for which it was created, including works, improvements, facilities, plants, equipment, and appliances incident, helpful, or necessary to:

(1) supply water for municipal uses, domestic uses, power and commercial purposes, and other beneficial uses or controls;

(2) collect, transport, process, dispose of, store, and control domestic, industrial, or communal wastes whether in fluid, solid, or composite state;

(3) gather, conduct, divert, and control local storm water or other local harmful excesses of water in the district;

(4) irrigate the land in a district;

(5) alter land elevation in a district where it is needed; and

(6) provide fire-fighting services for the inhabitants of the district.

Sec. 65.202. ACQUISITION OF EXISTING FACILITIES. If a district acquires existing works, improvements, facilities, plants, equipment, and appliances, including those works, improvements, facilities, plants, equipment, and appliances owned by the district's predecessor water supply corporation, that are completed, partially created, or under construction, a district may assume the contracts and obligations of the previous owner and perform the obligations of the previous owner in the same manner and to the same extent that any other purchaser or assignee would be bound.

Sec. 65.203. SOLID WASTE. A district may collect solid waste and may purchase, construct, acquire, own, operate, maintain, repair, improve, and extend a solid waste collection and disposal system inside and outside the district and may make proper charges for its facilities or services provided by the system.

Sec. 65.204. FEES AND CHARGES. (a) A district may adopt and enforce necessary charges, including standby charges, fees, or rentals, for providing any district facilities or services.

(b) A district may require a deposit for any services or facilities furnished, and the district may or may not provide that the deposit will bear interest.

(c) A district may discontinue a facility or service to prevent an abuse or enforce payment of an unpaid charge, fee, or rental due to the district.

Sec. 65.205. ADOPTING RULES. A district may adopt and enforce reasonable rules to:

- (1) secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system;
- (2) preserve the purity and the sanitary condition of all water controlled by the district;
- (3) prevent waste or the unauthorized use of water controlled by the district;
- (4) regulate privileges on any land or easement owned or controlled by the district;
- (5) provide and regulate a safe and adequate freshwater distribution system;
- and
- (6) ensure adequate safeguards in the performance of the district's fire-fighting activities.

Sec. 65.206. EFFECT OF RULES. After the required publication, rules adopted by the district under Section 65.205 of this code shall be recognized by the courts as if they were penal ordinances of a city.

Sec. 65.207. PUBLICATION OF RULES. (a) The board shall publish a substantive statement of each rule and the penalty for its violation once a week for two consecutive weeks in one or more newspapers with general circulation in the area in which the district is located.

(b) The substantive statement shall be condensed as far as possible to intelligently explain the purpose to be accomplished or the act forbidden by each rule.

(c) The notice must advise that breach of a rule will subject the violator to a penalty and that the full text of each rule is on file in the principal office of the district at which it may be read by any interested person.

(d) Any number of rules may be included in one notice.

Sec. 65.208. EFFECTIVE DATE OF RULES. The penalty for violation of a rule is not effective and enforceable until five days after the last publication of the notice. Five days after the last publication, the published rule takes effect and ignorance of the rule is not a defense to a prosecution for the enforcement of the penalty.

Sec. 65.209. PENALTIES FOR VIOLATION OF RULES. (a) The board may set reasonable penalties for the breach of any rule of the district, but the board may not set a penalty that provides a fine of more than \$200 or confinement in the county jail for more than 30 days, or both the fine and confinement.

(b) A penalty under this section is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located.

Sec. 65.210. ENFORCEMENT BY PEACE OFFICERS. A district may employ its own peace officers with power to:

(1) make arrests when necessary to prevent or abate the commission of any offense against the rules of the district and against the law of this state if the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district; and

(2) make an arrest in case of an offense involving injury or detriment to any property owned or controlled by the district.

Sec. 65.211. ACQUISITION OF PROPERTY. (a) A district may acquire land, materials, waste grounds, easements, rights-of-way, and other property considered necessary by the board to accomplish any one or more of the purposes provided by this chapter.

(b) A district may acquire property by gift, grant, or purchase, and the right to acquire property includes property considered necessary for the construction, improvement, extension, enlargement, operation, or maintenance of the works, improvements, facilities, plants, equipment, or appliances of a district.

(c) A district may acquire either the fee simple title to or an easement on public or private land either inside or outside the district and may acquire the title to or an easement on property other than land held in fee.

(d) A district may also lease property on terms and conditions the board determines to be advantageous to the district.

Sec. 65.212. EMINENT DOMAIN. (a) A district may acquire any land, easement, or other property inside the district and may acquire any land, easement, or other property outside the district solely for sewer, water, storm drainage, and flood drainage connections when necessary by condemnation. The district also may elect to condemn either the fee simple title or an easement only.

(b) Except as specifically provided by this section, the right of eminent domain may be exercised in the manner provided in Title 52, Revised Statutes, except that a district is not required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party and is not required to deposit double the amount of any award in any suit.

(c) The proceedings must be instituted under the direction of the board and in the name of the district.

Sec. 65.213. COSTS OF RELOCATION OF PROPERTY. If the district, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, the necessary relocations, raising, lowering, rerouting, changing of grade, or alteration of construction must be accomplished at the sole expense of the district.

Sec. 65.214. SALE OF SURPLUS LAND. Any property or land owned by the district that may be found to be surplus and not needed by the district may be sold by order of the board either at a public or private sale or the land may be exchanged for other land.

Sec. 65.215. LEASES. A district may lease to any person all or any part of any facilities constructed or acquired or to be constructed or acquired by it. A lease may include the terms and provisions that the board determines to be advantageous to the district.

Sec. 65.216. RIGHT TO ENTER LAND. (a) The directors, engineers, and employees of a district may go on any land inside or outside the district to make surveys and examine the land with reference to the location of works, improvements, facilities, plants, equipment, or appliances and to attend to any business of the district.

(b) The district must give notice to the landowner at least 14 days before the date of entry on the land.

(c) If any district activities on the land cause damage to the land or property, the land or property must be restored as nearly as possible to its original condition. The district shall pay all costs of restoration.

Sec. 65.217. RIGHT TO USE ROAD RIGHT-OF-WAY. A district is granted right-of-way along and across any public, state, or county road or highway, but the district shall restore the road crossed to its previous condition of use, as nearly as possible, at the sole expense to the district.

Sec. 65.218. CONTRACTS. (a) A district may enter into a contract with any person for the joint ownership and operation of any works, improvements, facilities, plants, equipment, and appliances necessary to accomplish any purpose or function of the district, or a district may purchase an interest in any project used for any purpose or function of the district.

(b) A district may enter into contracts with any person in the performance of any purpose or function of the district.

(c) Without limiting the authority granted by Subsections (a) and (b) of this section, a district may enter into contracts with any person on the terms and conditions the board considers desirable, fair, and advantageous for:

- (1) the purchase and sale of water;
- (2) the collection, transportation, treatment, storage, and disposal of the district's domestic, industrial, and communal wastes or the collection, transportation, treatment, and disposal of domestic, industrial, and communal wastes of other persons;
- (3) the gathering, diverting, and control of local storm water, or other local harmful excess of water;
- (4) the continuing and orderly development of the land and property within the district through the purchase, construction, or installation of works, improvements, facilities, plants, equipment, and appliances that the district may be authorized to do or perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, all of the land and property may be placed in a position to ultimately receive the services of the works, improvements, facilities, plants, equipment, and appliances of the district;
- (5) the maintenance and operation of any works, improvements, facilities, plants, equipment, and appliances of the district or of another person;
- (6) the collection, treatment, and disposal of solid wastes collected inside or outside the district; and
- (7) the exercise of any other rights, powers, and duties granted to a district.

Sec. 65.219. SOURCE OF CONTRACTUAL PAYMENTS. A contract may provide that the district will make payment under the contract from proceeds from the sale of notes or bonds or from any income of the district or any combination of these sources of payment.

Sec. 65.220. CONTRACTS FOR MATERIALS, MACHINERY, AND CONSTRUCTION OF MORE THAN \$25,000. (a) The board shall seek bids for a contract that requires the expenditure of \$25,000 or more for the purchase of materials, machinery, and all things to constitute the works, improvements, facilities, plants, equipment, and appliances of the district or for construction.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids.

(c) The notice for bids shall be published in one or more newspapers with general circulation in the state and one or more newspapers published in each county in which the district is located. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. If no newspaper is published in the county or counties in which the district is located, publication in one or more newspapers with general circulation in the state is sufficient.

(d) The notice shall be published once a week for the two consecutive weeks immediately preceding the date on which the bids are to be opened.

(e) A contract may cover all of the improvements to be provided by the district or the various elements of the improvements may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the improvements will be constructed in stages over a period of years.

(f) A contract may provide for the payment of a total sum that is the completed cost of the improvement or may be based on bids to cover the cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers, or a contract may be awarded in any other form or composite of forms and to any responsible person or persons that, in the board's opinion, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plants, improvements, facilities, works, equipment, and appliances.

Sec. 65.221. ADDITIONAL WORK; CHANGE ORDERS. After a contract is awarded and the district determines that additional work is needed or that the character or type of work or facilities should be changed, the board may authorize change orders to the contract on terms the board may approve.

Sec. 65.222. CONSTRUCTION BIDS. (a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a certified or cashier's check on a responsible bank in the state or a bidder's bond for at least two percent of the total amount of the bid.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he shall forfeit the amount of the check or bond that accompanied his bid.

(d) The district may specify reasonable additional requirements.

Sec. 65.223. REPORTS FURNISHED TO PROSPECTIVE BIDDERS. The board shall furnish to any person who desires to bid on construction work, and who makes a request in writing, a copy of the engineer's report that shows the work to be done and all details of the work. The board may charge for each copy of the engineer's report an amount sufficient to cover the cost of making the copy.

Sec. 65.224. PROVISIONS OF CONTRACTS FOR CONSTRUCTION WORK. (a) A contract entered into by the board for construction work shall conform to this subchapter, and this subchapter is considered a part of the contract and prevails if this chapter and the contract are in conflict.

(b) The contract shall include or have attached to it the specifications, plans, and details for work included in the contract, and all work must be done in accordance with these plans and specifications under the supervision of the board and the district engineer.

Sec. 65.225. EXECUTING AND MAINTAINING CONSTRUCTION CONTRACTS. (a) Contracts for construction work must be in writing and signed by an authorized representative of the district and the contractor.

(b) The contract must be kept in the district's records and be available for public inspection.

Sec. 65.226. CONTRACTOR'S BOND. Any person to whom a contract is let must give good and sufficient performance and payment bonds as provided by Article 5160, Revised Statutes.

Sec. 65.227. INSPECTION OF AND REPORTS ON CONSTRUCTION WORK. (a) The board shall have control of construction being done for the district under contract for the purpose of determining whether or not the contract is being fulfilled and shall have the construction work inspected by the district engineer or his assistants.

(b) During the progress of the construction work, the district engineer shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report including as-built plans of the facilities showing whether or not the contractor has fully complied with the contract.

Sec. 65.228. COMMISSION SUPERVISION OF PROJECTS AND IMPROVEMENTS. (a) During construction of a project or improvement approved by the commission, substantial alterations may not be made in the plans and specifications without the approval of the commission.

(b) The commission or the executive director may inspect the project or improvement at any time during construction to determine if the project or improvement is being constructed as provided by the plans and specifications approved by the commission.

(c) If the commission finds that the project or improvement is not being constructed as provided by the approved plans and specifications, the commission shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board does not take steps to ensure that the project or improvement is being constructed as provided by the approved plans and specifications, the commission shall give written notice of this fact to the attorney general.

(e) After the attorney general receives notice under Subsection (d) of this section, he may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is in a district court in Travis County.

Sec. 65.229. PAYMENT FOR CONSTRUCTION WORK. (a) The district shall pay the contract price of construction contracts as provided in this section.

(b) The district shall make progress payments under construction contracts based on estimates approved by the district engineer monthly as the work proceeds, or at more frequent intervals as determined by the district engineer.

Sec. 65.230. CONTRACTS FOR MATERIALS, MACHINERY, AND CONSTRUCTION OF \$5,000 OR MORE BUT LESS THAN \$25,000. (a) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is \$5,000 or more but less than \$25,000, or if the contract is for a duration of more than two years, competitive bids on uniform written specifications must be requested from at least three bidders.

(b) A contract must be written and must be awarded to the lowest and best bidder.

Sec. 65.231. CONTRACTS WITH GOVERNMENTAL AGENCIES. This subchapter does not prohibit a district from purchasing property from public agencies by negotiated contract or without the necessity of advertising for bids.

Sec. 65.232. PERSONAL OR PROFESSIONAL SERVICE CONTRACTS. The requirements of this subchapter do not apply to contracts for personal or professional service or for a utility service operator.

Sec. 65.233. GRANTS, GIFTS, ADVANCES, AND LOANS. A district may accept grants, gifts, advances, and loans in any form from any source approved by the board, including the United States, the state or any of its agencies, any private or public corporation, and any other person and may enter into contracts, agreements, and covenants the board considers appropriate in connection with acceptance of grants, gifts, advances, and loans.

Sec. 65.234. AREAWIDE WASTE TREATMENT. The powers and duties conferred on the district are granted subject to the policy of the state to encourage the development and use of integrated areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state, it being an objective of that policy to avoid the economic burden to the people and the impact on the quality of the water in the state that result from the construction and operation of numerous small waste collection, treatment, and disposal facilities to serve an area when an integrated areawide waste collection, treatment, and disposal system for the area can be reasonably provided.

Sec. 65.235. SERVICE TO AREAS OUTSIDE THE DISTRICT. (a) A district may purchase, construct, acquire, own, operate, repair, improve, or extend works, improvements, facilities, plants, equipment, and appliances necessary to provide a water system and a sewer system, collect solid waste, or provide fire-fighting services for areas contiguous to or in the vicinity of the district provided the district does not duplicate a service of another public agency. A district may not provide a water or a sanitary sewer system or fire-fighting services to serve areas outside the district that are within a city unless the district obtains a resolution or

ordinance of the city granting consent for the district to serve the area within the city.

**[Sections 65.236-65.300 reserved for expansion]**

**SUBCHAPTER E. POWERS AND DUTIES RELATING TO  
FIRE-FIGHTING ACTIVITIES**

Sec. 65.301. FIRE DEPARTMENTS. A district may establish, operate, and maintain a fire department to perform all fire-fighting activities within the district as provided by Section 50.055, Water Code.

**[Sections 65.302-65.400 reserved for expansion]**

**SUBCHAPTER F. GENERAL FISCAL PROVISIONS**

Sec. 65.401. DISBURSEMENT OF FUNDS. A district's money may be disbursed only by check, draft, order, or other instrument and must be signed by at least two authorized signatories, except the general manager, treasurer, or other employee of the district, when authorized by resolution of the board, may sign checks, drafts, orders, or other instruments on any district operation account without additional signatures.

Sec. 65.402. PURPOSE FOR BORROWING MONEY. The district may borrow money for any district purpose or combination of district purposes.

Sec. 65.403. BOND ANTICIPATION NOTES. Bond anticipation notes may be issued for any purpose for which bonds of the district may be issued or may be issued for the purpose of refunding previously issued bond anticipation notes. A district may enter into a covenant with the purchasers of the bond anticipation notes that the district will use the proceeds of the sale of bonds for the purpose of paying or refunding the bond anticipation notes. If the district enters into such a covenant, the board is required to use the proceeds received from sale of the bonds to pay the principal of, interest on, or redemption price on the bond anticipation notes.

Sec. 65.404. REPAYMENT OF ORGANIZATIONAL EXPENSES. The board may pay all costs and expenses necessarily incurred in the creation and organization of a district, the cost of investigation and making plans, the cost of the engineer's report, legal fees, and other incidental expenses, and may reimburse any person for money advanced for those purposes. Those payments may be made from money obtained from the issuance of notes or the sale of bonds first issued by the district.

Sec. 65.405. PREMIUM ON DIRECTORS' OR EMPLOYEES' BONDS. The board may pay the premium on surety bonds required of director or employees of the district out of available funds of the district including proceeds from the sale of bonds.

Sec. 65.406. DEPOSITORY. (a) The board, by order or resolution, shall designate one or more banks inside or outside the district to serve as depository for the funds of the district.

(b) Funds of the district must be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds.

(c) To the extent that funds in a depository bank are not insured by the Federal Deposit Insurance Corporation, the funds must be secured in the manner provided by law for the security of funds of counties of this state.

(d) The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

Sec. 65.407. INVESTMENTS. (a) Funds of the district may be invested and reinvested by the board or its authorized representative in direct or indirect obligations of the United States, the state, or any county, city, school district, or other political subdivision of the state.

(b) Funds of the district may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of this state.

(c) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for the investments on terms the board considers advisable.

Sec. 65.408. ACCOUNTS AND RECORDS; AUDITS. (a) The district shall keep a complete system of accounts, and an audit of its affairs for each year must be prepared in accordance with any procedures or requirements approved by the board, by an independent certified public accountant, or by a firm of independent certified public accountants.

(b) The fiscal year of the district is January 1 through December 31, until changed by the board.

(c) A signed copy of the audit report must be delivered to each member of the board of directors not later than 120 days after the close of each fiscal year, and a copy of the audit must be kept on file at the district office and shall constitute a public record open for inspection by any interested person during normal office hours.

Sec. 65.409. PAID BONDS AND COUPONS. District bonds and interest coupons or notes when paid shall be delivered to the district or destroyed and evidence of the destruction furnished by the board.

[Sections 65.410-65.500 reserved for expansion]

#### SUBCHAPTER G. ISSUANCE OF BONDS AND NOTES

Sec. 65.501. ISSUANCE OF BONDS AND NOTES. The district may issue its bonds or notes for the purpose of purchasing, constructing, acquiring, owning, operating, repairing, improving, or extending any district works, improvements, facilities, plants, equipment, and appliances needed to accomplish the purposes listed in Section 65.012 of this code, including works, improvements, facilities, plants, equipment, and appliances needed to provide a waterworks system, sanitary sewer system, storm sewer system, solid waste disposal system, or to provide for solid waste collection or fire-fighting services and facilities.

Sec. 65.502. FORM OF BONDS AND NOTES. (a) A district may issue its bonds or notes in various series or issues.

(b) Bonds or notes shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate permitted by the constitution and laws of this state. The board shall determine the maturity and the interest rate of the bonds and notes.

(c) A district's bonds, notes, and interest coupons, if any, are investment securities under Chapter 8, Business & Commerce Code, and may be issued registrable as to principal or as to both principal and interest. The board may make the bonds redeemable before maturity, at the option of the district, or may include in the bonds a mandatory redemption provision.

(d) A district's bonds or notes may be issued in the form, denominations, and manner and under the terms, conditions, and details, and must be signed and executed, as provided by the board in the resolution or order authorizing the issuance of the bonds or notes.

Sec. 65.503. MANNER OF REPAYMENT OF BONDS OR NOTES. The board may provide for the payment of principal of and interest and redemption price, if any, on the bonds or notes by pledging all or any part of the designated revenues to result from the ownership or operation of the district's works, improvements, facilities, plants, equipment, and appliances or under specific contracts for the period of time the board determines.



Sec. 65.504. ADDITIONAL SECURITY FOR BONDS OR NOTES. (a) The bonds or notes, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien on all or part of the physical properties of the district, and franchises, easements, water rights, and appropriation permits, leases, and contracts and all rights appurtenant to those properties; vesting in the trustee power to sell the property for payment of the indebtedness, power to operate the property, and all other authority necessary for the further security of the bonds or notes.

(b) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on any property, may:

(1) include provisions prescribed by the board for the security of the bonds or notes and the preservation of the trust estate;

(2) make provision for amendment or modification;

(3) condition the right to spend district money or sell district property on approval of a registered professional engineer selected as provided in the trust indenture; and

(4) make provision for investment of funds of the district.

(c) Any purchaser under a sale under the deed of trust or mortgage lien, if one is given, is absolute owner of the property, facilities, and rights purchased and is entitled to maintain and operate them.

Sec. 65.505. METHOD FOR ISSUANCE OF BONDS AND NOTES. Bonds or notes may be issued by resolution or order of the board.

Sec. 65.506. PROVISIONS OF BONDS OR NOTES. (a) In an order or resolution authorizing the issuance of bonds or notes, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds, and may enter into additional covenants relating to the bonds or notes and the pledged revenues and to the operation and maintenance of those works, improvements, facilities, plants, equipment, and appliances the revenues of which are pledged, including provision for the operation or for the leasing of all or any part of the improvements and the use or pledge of money derived from the operation contracts and leases, as the board considers appropriate.

(b) An order or resolution of the board authorizing the issuance of bonds or notes also may prohibit the further issuance of bonds, notes, or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued, subject to the conditions that may be set forth in the order or resolution.

(c) An order or resolution of the board issuing bonds or notes may include other provisions and covenants determined by the board that are not prohibited by the constitution or by this chapter.

(d) The board may adopt and have executed any other proceedings or instruments necessary and convenient in the issuance of bonds or notes.

Sec. 65.507. USE OF BOND OR NOTE PROCEEDS. The district may use bond or note proceeds to pay interest, administrative, and operating expenses expected to accrue during the period of construction. The period of construction under this section may not exceed three years as provided by the bond order or resolution. The district also may use bond or note proceeds to pay expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds or notes.

Sec. 65.508. SALE OR EXCHANGE OF BONDS. (a) The board shall sell the bonds on the best terms and for the best possible price, but the bonds may not be sold for less than 95 percent of their face value.

(b) The district may exchange bonds for property acquired by purchase or in payment of the contract price of work done or services performed for the use and benefit of the district.

Sec. 65.509. APPROVAL BY ATTORNEY GENERAL; REGISTRATION BY COMPTROLLER. (a) Bonds issued by a district must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds are authorized in accordance with law, he shall approve them, and the comptroller shall register the bonds.

(c) After the registration of bonds by the comptroller, the bonds are incontestable in any court or other forum, for any reason, and are valid and binding obligations in accordance with their terms for all purposes.

(d) If bonds that are payable from revenues recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or a lease made between the district and one or more parties, a copy of the contract or lease and the proceedings authorizing the contract or lease may or may not be submitted to the attorney general along with the bond records. If submitted, the approval by the attorney general of the bonds constitutes an approval of the contract or lease, and the contract or lease is incontestable as provided by Subsection (c) of this section.

Sec. 65.510. REFUNDING BONDS. (a) A district may issue bonds to refund all or any part of its outstanding bonds, notes, or other obligations, including matured but unpaid interest coupons.

(b) Refunding bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate or rates permitted by the constitution and laws of this state.

(c) Refunding bonds may be payable from the same source as the bonds, notes, or other obligations being refunded or from other additional sources.

(d) The refunding bonds shall be approved by the attorney general and shall be registered by the comptroller on the surrender and cancellation of the bonds being refunded as provided by Section 65.509 of this code.

(e) An order or resolution authorizing the issuance of refunding bonds may provide that the refunding bonds will be sold and the proceeds deposited in the place or places at which the bonds being refunded are payable, and the refunding bonds may be issued before the cancellation of the bonds being refunded provided an amount sufficient to pay the principal of and interest on the bonds being refunded to their maturity dates, or to their option dates if the bonds have been duly called for payment prior to maturity according to their terms, is deposited in the place or places at which the bonds being refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds being refunded.

(f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds and their interest coupons are investment securities under Chapter 8, Business & Commerce Code.

(g) In lieu of the method set forth in this section, a district may refund bonds, notes, or other obligations as provided by the general laws of this state.

Sec. 65.511. OBLIGATIONS; LEGAL INVESTMENT; SECURITY FOR FUNDS. (a) Bonds, notes, and other obligations issued by a district are legal and authorized investments for all banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, and trustees, guardians, and for interest and sinking funds and other public funds of the state and its agencies, including the permanent school fund, and counties, cities, school districts, and other political subdivisions of the state.

(b) A district's bonds, notes, and other obligations are eligible to secure deposits of public funds of the state and its agencies and counties, cities, school districts, and other political subdivisions of the state. The bonds, notes, and other obligations are lawful and sufficient security to the extent of their market value if accompanied by all unmatured interest coupons attached to them.

Sec. 65.512. AUTHORITY OF COMMISSION OVER ISSUANCE OF DISTRICT BONDS. (a) The executive director shall investigate and report on the

organization and feasibility of all districts that issue bonds, other than refunding bonds, under this chapter.

(b) A district that desires to issue bonds under this chapter, other than refunding bonds, shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(c) The executive director shall examine the application and accompanying documents and shall visit and carefully inspect the project. The executive director may request and must be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and shall furnish to the board a copy of the report prepared by him.

(e) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report that it shall file in its office. The commission shall furnish a copy of that report to the district.

Sec. 65.513. MANDAMUS BY BONDHOLDERS. In addition to other rights and remedies provided by the law of this state, if a district defaults in the payment of principal of, interest on, or redemption price on its bonds when due, or if the district fails to make payments into any fund created in the order or resolution authorizing the issuance of the bonds, or defaults in the observation or performance of any other covenants, conditions, or obligations stated in the resolution or order authorizing the issuance of its bonds, the owners of any of the bonds are entitled to a writ of mandamus issued by a court of competent jurisdiction compelling the district and its officials to observe and perform the covenants, the obligations, or conditions prescribed in the order or resolution authorizing the issuance of the district's bonds.

Sec. 65.514. FEES AND CHARGES. (a) A district may establish, maintain, revise, charge, and collect the rates, fees, rentals, tolls, or other charges considered necessary for the use, services, and facilities of the water and sewer system, the collection of solid waste, or fire-fighting services that provide service to areas outside the district. The rates, fees, rentals, tolls, and other charges may be higher than those charged for comparable service to residents inside the district.

(b) The rates, fees, rentals, tolls, or other charges must be at least sufficient to meet the expense of operating and maintaining the water and sewer system, solid waste collection system, or fire-fighting services serving areas outside the district and to pay the principal of and interest and redemption price on bonds issued to purchase, construct, acquire, own, operate, repair, improve, or extend the system.

Sec. 65.515. CANCELLATION OF UNSOLD BONDS. (a) The board, by order or resolution, may provide for the cancellation of all or any part of any bonds that have been submitted to and approved by the attorney general and registered by the comptroller, but not yet sold, and may provide for the issuance of new bonds in lieu of the old bonds in the manner provided by this chapter for the issuance of the original bonds including their approval by the attorney general and their registration by the comptroller.

(b) The order or resolution of the board shall describe the bonds to be canceled, and also shall describe the new bonds to be issued in lieu of the old bonds.

(c) A certified copy of the order or resolution of the board providing for the cancellation of the old bonds, together with the old bonds, shall be delivered to the comptroller, who shall cancel and destroy the old bonds and make a record of the cancellation.

**[Sections 65.516-65.700 reserved for expansion]**

**SUBCHAPTER H. ADDING AND EXCLUDING TERRITORY;  
CONSOLIDATING AND DISSOLVING DISTRICTS**

Sec. 65.701. EXCLUDING LAND FROM DISTRICT. (a) The board may on its own motion call a hearing on the question of the exclusion of land from the district under Sections 65.702-65.707 of this code, if it considers the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of any landowner or property owner in the district filed with the secretary of the board.

Sec. 65.702. HEARING TO ANNOUNCE PROPOSED EXCLUSIONS AND TO RECEIVE PETITIONS. If the board determines that an exclusion hearing should be held or if a written petition requesting an exclusion hearing is filed with the secretary of the board as provided by Section 65.701 of this code, the board shall give notice of a time and place for a hearing to announce its own conclusions relating to land or other property to be excluded and to receive petitions for exclusion of land or other property.

Sec. 65.703. NOTICE OF HEARING. (a) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 14 days before the date of the hearing.

(b) Notice of the hearing also must be posted in two public places within the district at least 14 days before the date set for the hearing.

(c) The notice shall advise all interested property owners of their right to:  
(1) present petitions for exclusions of land or other property;  
(2) offer evidence in support of the petitions;  
(3) contest any proposed exclusion based on either a petition or the board's own conclusions; and

(4) offer evidence in support of the contest.

Sec. 65.704. PETITION. (a) A petition for exclusion of land must accurately describe by metes and bounds or lot and block number the land to be excluded. A petition for exclusion of other property must describe the property to be excluded.

(b) A petition for exclusion must be filed with the district at least seven days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds may be considered.

Sec. 65.705. GROUNDS FOR EXCLUSION. Exclusions from the district may be made on the grounds that:

(1) to retain any particular land or other property in the district and to extend to it, either presently or in the future, the benefits, services, or protection of the district's facilities would create an undue and uneconomical burden on the remainder of the district; or

(2) the land desired to be excluded cannot:

(A) be improved as to conditions of living and health;

(B) be provided with water or sewer service;

(C) be protected from flood, or drained, or freed from interruption of traffic caused by an excess of water on the roads, highways, or other means of transportation serving the land; or

(D) otherwise be benefited by the district's proposed improvements.

Sec. 65.706. HEARING PROCEDURE. (a) The board may adjourn the hearing from day to day and until all persons desiring to be heard are heard.

(b) The board shall specifically describe all property that it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion.

Sec. 65.707. ORDER EXCLUDING LAND. (a) After considering all engineering data and other evidence presented to it, the board shall determine

whether the grounds exist under Subdivision (1) or (2), Section 65.705, of this code to exclude the land and, if so, shall issue an order excluding the land or other property. In its order, the board also shall redefine the boundaries of the district to include land not excluded.

(b) A copy of the order excluding land and redefining the boundaries of the district shall be filed in the deed records of each county in which the district is located.

Sec. 65.708. SUIT TO REVIEW EXCLUSION. A person who owns an interest in land affected by the order may file a petition to review, set aside, modify, or suspend the order. The petition must be filed not later than the 20th day after the order takes effect.

Sec. 65.709. VENUE OF SUIT. Venue in any action shall be in a district court in the county in which the district is located. If the district includes land in more than one county, the venue is in a district court in the county in which the major portion of the acreage of the land sought to be excluded from the district is located.

Sec. 65.710. APPEAL. A person may appeal a judgment or order of a district court in a suit brought under Sections 65.708-65.709 of this code to the appropriate court of civil appeals and supreme court as provided in other civil cases. The appeal is subject to the statutes and rules of practice and procedure in civil cases.

Sec. 65.711. ADDING LAND BY PETITION OF LANDOWNER. A landowner may file with the board a petition requesting that there be included in the district the land described in the petition by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.

Sec. 65.712. PETITION SIGNED AND EXECUTED. A petition of the landowner to add land to the district must be signed and executed in the manner provided by law for the conveyance of real estate.

Sec. 65.713. HEARING AND DETERMINATION OF PETITION. The board shall hear and consider the petition and may add to the district the land described in the petition if the land is considered to be to the advantage of the district and if the water, sewer, and drainage system and other improvements or services of the district are sufficient or will be sufficient to supply the added land without injuring land already in the district.

Sec. 65.714. RECORDING PETITION. A petition that is granted adding land to the district must be filed for record and must be recorded in the office of the county clerk of each county in which the land is located.

Sec. 65.715. ADDING LAND BY PETITION OF LESS THAN ALL LANDOWNERS. In addition to the method of adding land to a district that is described in Sections 65.711-65.714 of this code, defined areas of land, whether or not they are contiguous to the district, may be annexed to the district in the manner provided by this subchapter.

Sec. 65.716. FILING PETITION. A petition requesting the annexation of a defined area signed by a majority in value of the landowners in the defined area, as shown by the tax rolls of each county in which the area is located, or signed by 50 landowners if the number of landowners is more than 50, shall be filed with the secretary of the board.

Sec. 65.717. HEARING ON PETITION. The board shall issue an order establishing a time and place at which the petition for annexation will be heard. The hearing must be held not less than 30 days from the date the order calling the hearing is issued.

Sec. 65.718. NOTICE OF HEARING. (a) The secretary shall issue a notice stating the time and place of the hearing and describing the area proposed to be annexed.

(b) Notice of the hearing must be given by posting copies of the notice in three public places in the district and in one public place in the area proposed to be

annexed at least 14 days before the date set for the hearing and by publishing a copy of the notice in a newspaper of general circulation in each county in which the area proposed to be annexed is located one time at least 14 days before the date set for the hearing.

Sec. 65.719. ORDER ADDING DEFINED AREA. (a) After the hearing on the petition, if the board finds that the proposed annexation of the area to the district is feasible and practicable and would be of benefit both to the area and to the district, the board, by order entered in its minutes, shall call and hold an election on the question of annexation. The election shall be held in the area described in the petition.

(b) The district calling the election does not have to include all of the land described in the petition, if the board at the hearing finds a modification or change necessary or desirable. The territory to be added shall be described in the petition.

(c) At the election, a proposition shall be submitted to the voters on the question of annexation.

(d) The board shall canvass the results of the election and, by order, shall declare the results.

(e) If a majority of the qualified voters voting in the election approves the proposition, the board, by order, shall annex the area to the district."

Sec. 65.720. FILING ORDER ADDING LAND. (a) A copy of an order annexing land to the district, attested by the secretary of the board, must be filed and recorded in the deed records of each county in which the district is located.

(b) After the order is recorded, the area is a component part of the district.

Sec. 65.721. DUTY TO SERVE NEW LAND INCLUDED IN DISTRICT. The district has the same duty to furnish service to the annexed land that it previously had to furnish service to other land in the district, and the board shall endeavor to serve all land in the district without discrimination.

Sec. 65.722. DUTY TO ADVISE EXECUTIVE DIRECTOR. The board shall furnish the executive director a detailed description of any land excluded from or annexed to the district within 30 days after the exclusion or annexation or as soon after that time as practicable.

Sec. 65.723. CONSOLIDATION OF DISTRICTS. Two or more districts governed by this chapter may consolidate into one district as provided by this subchapter.

Sec. 65.724. ELECTIONS TO APPROVE CONSOLIDATION. (a) After the board of each district has agreed on the terms and conditions of consolidation, which may include the assumption by each district of the other district's bonds, notes, or other obligations and adoption of a name for the consolidated district, the board of each district shall order an election in each of their respective districts to determine whether the districts should be consolidated.

(b) The board of each district shall order the election to be held on the same day in each district and shall give notice of the election for the time and in the manner provided by law for bond elections under this chapter.

(c) The districts may be consolidated only if the qualified voters in each district voting at the election vote in favor of the consolidation.

Sec. 65.725. GOVERNING CONSOLIDATED DISTRICTS. (a) After two or more districts are consolidated, they become one district and are governed as one district.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district or name persons to serve as officers of the consolidated district until their successors assume office under Subsection (e) of this section.

(d) On the next available uniform election date, an election shall be called and held, and directors will be elected for the consolidated district in the same manner and for the same term as directors elected under Section 65.103 of this code.

(e) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(f) The current board shall approve the bond of each new officer.

Sec. 65.726. DEBTS OF ORIGINAL DISTRICTS. After two or more districts are consolidated, the debts of the original districts shall be protected and may not be impaired.

Sec. 65.727. DISSOLUTION OF DISTRICT PRIOR TO ISSUANCE OF BONDS. (a) If the board considers it advisable before the issuance of any bonds, notes, or other indebtedness, the board may dissolve a district and liquidate the affairs of the district as provided by this subchapter.

(b) If a majority of the board finds at any time before the issuance of bonds, notes, or other obligations or the final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

Sec. 65.728. NOTICE OF HEARING. The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district and shall publish notice of the hearing two times in a newspaper with general circulation in the district. The notice must be posted and published at least one time no later than the 14th day before the date set for the hearing on the proposed dissolution of the district.

Sec. 65.729. HEARING. The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

Sec. 65.730. BOARD'S ORDER TO DISSOLVE DISTRICT. If the board unanimously determines from the evidence that the best interests of the persons and property in the district will be served by dissolving the district, the board shall enter the appropriate findings and order in its records dissolving the district. Otherwise the board shall enter its order providing that the district has not been dissolved.

Sec. 65.731. JUDICIAL REVIEW OF BOARD'S ORDER. The board's decree to dissolve the district may be appealed in the manner provided by Sections 65.708-65.710 of this code for the review of an order excluding land from the district.

Sec. 65.732. Section 11, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), does not apply to the annexation of a portion of a special utility district created or operating under this chapter.

SECTION 2. Chapter 50 of the Water Code is amended by adding the following new Section 50.380 to read as follows:

Sec. 50.380. Section 11, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), does not apply to the annexation by a city of a district which has a noncontiguous portion which is not within the extraterritorial jurisdiction of the city.

SECTION 3. Section 3, Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes) is amended to read as follows:

Sec. 3. The governing body of any issuer is authorized to issue bonds with or without interest coupons, in any denomination, payable at such time or times, in such amount or amounts or installments, at such place or places, in such form, under such terms, conditions, and details, in such manner, redeemable prior to maturity at any time or times, bearing no interest, or bearing interest at any rate or rates (either fixed, [or variable, or floating, according to any clearly stated

formula, calculation, or method] variable, floating, adjustable, or otherwise, all as determined by the governing body or by a formula or contractual arrangement for the periodic determination of interest rates, such determination, formula, or arrangement to be set forth in the instrument providing for the issuance of the bonds) not to exceed the maximum net effective interest rate allowed by law, and the bonds and interest coupons, if any, may be signed or otherwise executed in such manner, with manual or facsimile signatures, and with or without a seal, all of the foregoing as shall be specified by the governing body of the issuer in the resolution, order, ordinance, or other proceedings authorizing the issuance of the bonds. In the event any officer or officers whose signatures are on any bonds or interest coupons appertaining thereto cease to be such officers or officer before the delivery thereof to the purchaser, such signature or signatures shall nevertheless be valid and sufficient for all purposes and the successor or successors in office of any such officer or officers shall be fully authorized to complete the execution, authentication, and/or delivery of said bonds and interest coupons to the purchaser or the purchasers thereof.

SECTION 4. Subsection (b), Section 6 Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes) is amended to read as follows:

(b) The governing body or any issuer may provide and covenant for the conversion of any form of bond or interest coupon into any other form or forms of bond or interest coupon, and for reconversion of bonds and interest coupons into any other form, and may provide procedures for the replacement of lost, stolen, destroyed, or mutilated bonds or interest coupons, or for the transfer or exchange of bonds for previously issued bonds, all in such manner as may be prescribed by the governing body of the issuer in the resolution, order, ordinance, or other proceedings authorizing the issuance of the bonds. Notwithstanding the foregoing provisions of Section 6(a) of this Act, if the duty of replacement, conversion, or reconversion of any bonds or interest coupons or of the transfer or exchange of previously issued bonds, is imposed upon a corporate trustee under a trust agreement or trust indenture securing the bonds, or upon a place of payment (paying agent) for any such the bonds or interest coupons, the replacement, converted, or reconverted bonds or interest coupons, or the bonds delivered on transfer or exchange of previously issued bonds need not be reapproved by the attorney general or reregistered by the comptroller of public accounts as provided in Section 6(a), and all such replacement, converted, or reconverted bonds and interest coupons and such transferred or exchanged bonds, shall be valid, incontestable, and enforceable in the same manner and with the same effect as the bonds originally issued.

SECTION 5. Bond Procedures Act (Article 717k-6, Vernon's Texas Civil Statutes) is amended by the addition of Section 12 to read as follows:

Section 12. When the governing body of any issuer provides in the resolution, order, ordinance, or other proceedings authorizing the issuance of any bond or bonds for a pledge or lien on revenues, income, or other resources of the issuer, or the assets of the issuer, or any fund maintained by the issuer, such pledge or lien shall be valid and binding in accordance with its terms without further action on the part of the issuer and without any filing or recording with respect thereto except in the records of the issuer. All such liens and pledges shall be effective from the time of payment for and delivery of the bonds until the bonds have been paid or payment of the bonds has been provided for and shall be fully effective as to items then on hand and thereafter received, and said items shall be subject to such liens or pledges without any physical delivery thereof or further act. Nothing contained in this Section shall relieve any issuer of any obligation to file or record any lien on realty or to submit any bond issue for approval by the Attorney General and registration by the Comptroller of Public Accounts.



The amendment was read and was adopted.

Senator Farabee offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 1769 by adding the following new sections 2 and 3 and renumbering Section 2 to be Section 4:

SECTION 2. Subsection (e), Section 4, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) Except as provided in Subsection (f) of this section with respect to certain industrial solid wastes, each state agency has the power to require and issue permits authorizing and governing the construction, operation, and maintenance of solid waste facilities used for the storage, processing, or disposal of solid waste. This power may be exercised by a state agency only with respect to the solid waste over which it has jurisdiction under this Act. If this power is exercised by a state agency, that state agency shall prescribe the form of and reasonable requirements for the permit application and the procedures to be followed in processing the application, to the extent not otherwise provided for in this subsection. The following additional provisions apply if a state agency exercises the power authorized in this subsection. [-]

(1) The state agency to whom the permit application is submitted shall mail a copy of the application or a summary of its contents to the Texas Air Control Board, to the other state agency, to the mayor and health authorities of any city or town within whose territorial limits or extraterritorial jurisdiction the solid waste facility is located, and to the county judge and health authorities of the county in which the facility is located. The governmental entities to whom the information is mailed shall have a reasonable time, as prescribed by the state agency to whom the application was originally submitted, to present comments and recommendations on the permit application before that state agency acts on the application.

(2) A separate permit shall be issued for each solid waste facility. The permit shall include the names and addresses of the person or persons who own the land where the solid waste facility is located and the person who is or will be the operator or person in charge of the facility; a legal description of the land on which the facility is located; and the terms and conditions on which the permit is issued, including the duration of the permit. The state agency in its discretion shall have the power to process a permit application for purpose of determining land use compatibility alone, and at another time, if the site location is acceptable, consider technical matters related to the application. Where this power is exercised, a public hearing may be held for each determination in accordance with Paragraph (4) of this Subsection (e).

(3) The state agency may amend, extend, or renew any permit it issues in accordance with reasonable procedures prescribed by the state agency. The procedures prescribed in Paragraph (1) of this Subsection (e) for permit applications apply also to applications to amend, extend, or renew a permit.

(4) Before a permit is issued, amended, extended, or renewed, the state agency to which the application is submitted shall provide an opportunity for a hearing to the applicant and persons affected; the state agency may also hold such a hearing upon its own motion. The state agency by rule shall establish procedures for public notice and any public hearing authorized under this paragraph. A hearing on a permit involving a solid waste facility for hazardous industrial solid waste must include one session held in the county in which the solid waste facility is located. Hearings under this paragraph shall be conducted in accordance with the hearing rules adopted by the state agency and the applicable provisions of the

Administration Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(5) Before a permit is issued, amended, extended, or renewed, the state agency to which the application is submitted may require the permittee to execute a bond or give other financial assurance conditioned on the permittee's satisfactorily operating and closing the solid waste facility. The state agency to which the application is submitted shall require an assurance of financial responsibility as may be necessary or desirable consistent with the degree and duration of risks associated with the processing, storage, or disposal of specified solid waste. Financial requirements established by the state agency shall at a minimum be consistent with the federal requirements established under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C., 6901 et seq., as amended.

(6) If a permit is issued, amended, renewed, or extended by a state agency in accordance with this Subsection (e), the owner or operator of the solid waste facility does not need to obtain a license for the same facility from a county, or from a political subdivision exercising the authority granted in Section 6 of this Act.

(7) A permit issued under this Act is issued only to the person in whose name the application is made and is issued only for the facility described in the permit. A permit may not be transferred without prior written notice to and prior written approval by the state agency which issued it.

(8) The state agency has the authority, for good cause, to revoke or amend any permit it issues for reasons pertaining to public health, air or water pollution, land use, or violation of this Act or of any other applicable laws or rules controlling the management of solid waste. The state agency using this authority shall notify the governmental entities named in Paragraph (1) of this Subsection (e) and provide an opportunity for a hearing to the permittee and persons affected. The state agency may hold such a hearing upon its own motion. The state agency by rule shall establish procedures for public notice and any public hearing authorized under this paragraph. Hearings under this paragraph shall be conducted in accordance with the hearing rules adopted by the state agency and the applicable provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(9) Manufacturing and processing establishment, commonly known as rendering plants, which process for any purpose waste materials originating from animals, poultry, and fish (all hereinafter referred to as "animals") and materials of vegetable origin, including without limitation animal parts and scraps, offal, paunch manure, and waste cooking grease of animal and vegetable origin are subject to regulation under the industrial solid waste provisions of this Act and may also be regulated under Chapter 26, Water Code. When a rendering establishment is owned by a person who operates the rendering establishment as an integral part of an establishment engaged in manufacturing or processing for animal or human consumption food derived wholly or in part from dead, slaughtered, or processed animals, poultry, or fish, the combined business may operate under authority of a single permit issued pursuant to Chapter 26, Water Code. The provisions of this subsection do not apply to those rendering plants in operation and production on or before August 27, 1973.

(10) Each state agency may issue an emergency order, either mandatory or prohibitory in nature, regarding any activity of solid waste management within its jurisdiction, whether such activity is covered by a permit or not, if the state agency determines that the activity is creating or will cause extensive or severe property damage or economic loss to others or is posing an immediate and serious threat to human life or health and that other procedures available to the state agency to remedy or prevent the occurrence of the situation will result in unreasonable delay.

The order may be issued without notice and hearing, or with such notice and hearing as the state agency deems practicable under the circumstances.

(i) If an emergency order is issued under this authority without a hearing, the issuing agency shall fix a time and place for a hearing to be held in accordance with the departmental rules by the state agency, so as to affirm, modify, or set aside the emergency order.

(ii) The requirements of Paragraph (4) of this subsection relating to public notice do not apply to such a hearing, but such general notice of the hearing shall be given in accordance with the departmental rules of the state agency.

SECTION 3. Subsection (a), Section 5, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Every county has the solid waste management powers which are enumerated in this Section 5. However, the exercise of the licensing authority and other powers granted to counties by this Act does not preclude the department or the department of water resources from exercising any of the powers vested in the department or the department of water resources under other provisions of this Act, including specifically the provisions authorizing the department and the department of water resources to issue permits for the construction, operation, and maintenance of facilities for the processing, storage, or disposal of solid waste. The powers specified in Subsections (d) and (e) of this section and Section 18 of the County Solid Waste Control Act (Article 4477-8, Vernon's Texas Civil Statutes) may not be exercised by a county with respect to the industrial solid waste disposal practices and areas to which Subsection (f) of Section 4 of this Act applies. The department or the department of water resources, by specific action or directive, may supersede any authority or power granted to or exercised by a county under this Act, but only with respect to those matters which are, under this Act, within the jurisdiction of the state agency acting.

The amendment was read and was adopted.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

### HOUSE BILL 1769 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1769 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### HOUSE JOINT RESOLUTION 65 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.J.R. 65**, Proposing a constitutional amendment relating to the payment of assistance to the surviving dependent parents, brothers, and sisters of certain public servants killed while on duty.

The resolution was read second time and was passed to third reading.

**HOUSE JOINT RESOLUTION 65 ON THIRD READING**

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.J.R. 65** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 594 ON SECOND READING**

On motion of Senator Parmer and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 594**, Relating to certification requirements for aircraft crash and rescue fire fighters; providing penalty.

The bill was read second time and was passed to third reading.

**RECORD OF VOTES**

Senators Glasgow and McFarland asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 594 ON THIRD READING**

Senator Parmer moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 594** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Glasgow, McFarland, Traeger, Washington.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Glasgow, McFarland, Traeger.

**HOUSE BILL 441 ON SECOND READING**

Senator Edwards asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**H.B. 441**, Relating to furnishing a voter with a written voting aid for use at the polling place.

There was objection.

Senator Edwards then moved to suspend the regular order of business and take up **H.B. 441** for consideration at this time.

The motion prevailed by the following vote: Yeas 19, Nays 9.

Yeas: Brooks, Caperton, Doggett, Edwards, Farabee, Kothmann, Leedom, Lyon, Mauzy, Montford, Parker, Santiesteban, Sharp, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Blake, Brown, Harris, Henderson, Howard, Jones, Sarpalius, Sims, Traeger.

Absent: Glasgow, McFarland, Parmer.

The bill was read second time.

Question - Shall the bill be passed to third reading?

#### PERMISSION FOR COMMITTEE TO MEET

On motion of Senator Blake and by unanimous consent, the Administration Committee was granted permission to meet.

(President in Chair)

#### MESSAGE FROM THE HOUSE

House Chamber  
May 28, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**H.C.R. 103**, Requesting the governor to initiate an annual Distinguished Citizen Award.

**H.C.R. 271**, Congratulating Mr. and Mrs. James Hipp.

**H.C.R. 272**, Recognizing Capitol Physicians and Nurse.

**H.C.R. 274**, Honoring Robert B. Anderson.

**S.C.R. 119**, Granting Charles and Shirley Helms permission to sue the state.

**S.C.R. 126**, Directing the Public Utility Commission of Texas to study and examine alternatives for resolving the problems resulting from triplicate telephone service in municipalities of 2,000 to 2,500 population.

**S.C.R. 137**, Relating to specific matters which may be contained in the Conference Committee Report on **S.B. 179**.

**S.B. 42**, Relating to the making and accepting of political contributions and expenditures by a political committee and the filing of a statement of organizations. (As amended)

**C.S.S.B. 60**, Relating to fees imposed on proprietary schools and their representatives. (As amended)

**S.B. 123**, Relating to an exemption from sales and use taxes for certain equipment used by the visually handicapped. (As amended)

**C.S.S.B. 194**, Relating to the times at which certain vacancies in state and district offices may be filled, the terms of certain state and district officers, and the time at which certain terms expire.

**S.B. 239**, Relating to the authority of the attorney general to sue to restrain or enjoin violations of certain consumer protection laws.

**S.B. 253**, Relating to regulation of private process servers; giving the secretary of state certain powers and duties; prescribing fees; defining offenses and providing penalties. (As amended)

**S.B. 291**, Relating to the time a claim for compensation shall be made under the Workers' Compensation Act.

**C.S.S.B. 306**, Relating to accessibility of polling places to the elderly and physically handicapped. (As amended)

**S.B. 325**, Relating to allocation of certain cigarette tax revenue to and the use of the local parks, recreation, and open space fund. (As amended)

**C.S.S.B. 360**, Relating to the Texas Energy and Natural Resources Advisory Council serving as an energy resource center for school districts.

**S.B. 370**, Relating to reports concerning veterans who may have been exposed to certain chemical defoliants or herbicides or other causative agents, to assistance provided to those veterans, and to the Agent Orange Advisory Committee.

**C.S.S.B. 382**, Relating to the number of ballots furnished for each polling place. (As amended)

**S.B. 456**, Making an appropriation to the Texas Department of Corrections to pay utility costs incurred at its facilities.

**S.B. 470**, Relating to tort liability of certain units of government.

**S.B. 538**, Relating to the increase in minimum automobile liability coverage for motor vehicles. (As amended)

**S.B. 559**, Relating to the powers and duties of a corporation, its directors, and committees and the liabilities of a director of a corporation and to the indemnification of and maintenance of liability insurance for certain corporate directors, officers, employees, agents, and certain nominees and designees identified in this Act. (As amended)

**S.B. 607**, Relating to the definition of agricultural commodity and to exemptions from assessments of certain producers' product sales. (As amended)

**S.B. 634**, Relating to requiring participation in an alcohol or drug abuse program as a condition of a bond in certain criminal cases and to forfeiture for violation of the condition of the bond.

**S.B. 642**, Relating to the regulation of air conditioning contractors. (As amended)

**S.B. 661**, Relating to information that a filing officer provides concerning financing and assignment statements under the Business and Commerce Code and to an increase in fees for statements in excess of a certain amount.

**S.B. 711**, Relating to the establishment; administration; membership; qualifications, terms, and compensation of members; and powers and duties of the Texas Health and Human Services Coordinating Council, the Council on Disabilities, and the Long-term Care Coordinating Council for the Elderly and the relationship of the councils in carrying out their functions. (As amended)

**S.B. 714**, Relating to the lease of space in state office buildings to private tenants and to installation of vending facilities in those buildings.

**S.B. 772**, Relating to rules governing relationships between a state agency and its employees and a private organization or private donor.

**S.B. 810**, Relating to treatment programs at certain state chest hospitals.

**C.S.S.B. 812**, Relating to insurance coverage for the services of certain audiologists, speech pathologists, and language pathologists.

**S.B. 813**, Relating to the licensing and regulation of speech-language pathologists and audiologists.

**S.B. 815**, Relating to a bond or pledge of other securities or both for securing school district funds deposited in a bank.

**S.B. 853**, Relating to the duration of a bail bondsman's liability as surety on an appearance bond. (As amended)

**S.B. 884**, Relating to the definition of water and sewer utilities and to their regulation; to the jurisdiction, powers and duties, and qualifications of members of the Texas Water Commission.

**S.B. 898**, Relating to mandatory and permissive venue in civil actions, to transfers and hearings, to the effect of improper venue on a appeal from the trial on the merits, and to rules governing venue.

**S.B. 910**, Relating to hazardous duty pay for parole officers and certain employees or officials of the Board of Pardons and Paroles.

**C.S.S.B. 923**, Relating to the regulation of lobbying; providing for advisory opinions by the secretary of state.

**C.S.S.B. 1026**, Relating to maintenance of the ecological health and defined historic levels of productivity of the bays and estuaries under permits to store, take, or divert water.

**S.B. 1027**, Relating to the acquisition and content of a certificate of title for motorboats and outboard motors, to requirements for transfer of title, and to the creation and enforcement of liens on motorboats and outboard motors.

**S.B. 1044**, Relating to conflicts of interest of local public officials. (As amended)

**C.S.S.B. 1062**, Relating to the counties in the First and Fourteenth Supreme Judicial Districts reimbursing Harris County for certain costs incurred by Harris County pertaining to those courts.

**S.B. 1125**, Relating to absences from public schools for religious holy days.

**S.B. 1144**, Relating to transaction of business by courts of appeals for First and Fourteenth Supreme Judicial Districts.

**S.B. 1213**, Relating to regulation of the practice of occupational therapy; and to the creation, membership, qualifications, organization, powers and duties, and compensation of the Texas Advisory Board of Occupational Therapy. (As amended)

**S.B. 1228**, Relating to conventions of political parties required to nominate candidates by primary election. (As amended)

**C.S.S.B. 1235**, Relating to the development and conservation of the water resources of the State and to certain powers and duties of the Texas Water Development Board and the Texas Water Commission. (As amended)

**S.B. 1304**, Relating to the election of certain school district trustees from single-member trustee districts. (As amended)

**S.B. 1306**, Relating to the application of the Professional Prosecutors Act to the offices of certain district attorneys, criminal district attorneys, and county attorneys performing the duties of the district attorney and to compensation. (As amended)

**S.B. 1355**, Relating to the creation, membership, terms, compensation, staff, and powers and duties of a public authority to issue bonds for certain state building, communications, and data processing projects; to specific projects. (As amended)

**S.B. 1425**, Relating to the amendment of a condominium declaration and the authority of a condominium association to alter or destroy a unit or a limited common element.

**S.B. 1438**, Relating to dimensions of manufactured housing being transported on the highways, roads, and streets of Texas.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 921**. House Conferees: Bush, Chairman; Millsap, Glossbrenner, Mankins, Leonard.

The House has concurred in Senate amendments to **H.B. 1575** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1091** by a record vote of 127 Ayes, 0 Noes, and 1 Present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### CONFERENCE COMMITTEE REPORT SENATE BILL 482

Senator Harris submitted the following Conference Committee Report:

Austin, Texas  
May 27, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 482** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HARRIS  
MAUZY  
FARABEE  
GLASGOW  
McFARLAND  
On the part of the Senate

MESSER  
WORD  
SHORT  
KELLER  
RUSSELL  
On the part of the House

#### A BILL TO ENTITLED AN ACT

relating to the definition of the term "bet" for purposes of the Penal Code prohibitions against gambling; amending Subdivision (1), Section 47.01, Penal Code, as amended.



BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (1), Section 47.01, Penal Code, as amended, is amended to read as follows:

"(1) 'Bet' means an agreement that, dependent on chance even though accompanied by some skill, one stands to win or lose something of value. A bet does not include:

"(A) contracts of indemnity or [of] guaranty, or life, health, property, or accident insurance; [or]

"(B) an offer of a prize, award, or compensation to the actual contestants in a bona fide contest for the determination of skill, speed, strength, or endurance or to the owners of animals, vehicles, watercraft, or aircraft entered in a contest; or

"(C) an offer of merchandise with a value not greater than \$25, made by the proprietor of a bona fide contest for the determination of skill, if the person to receive the merchandise from the proprietor is the person who performs the contest."

SECTION 2. This Act takes effect September 1, 1983.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and in imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### HOUSE BILL 441 ON SECOND READING

The Senate resumed consideration of H.B. 441 on its second reading and passage to third reading.

Question - Shall the bill be passed to third reading?

Senator Traeger offered the following amendment to the bill:

Floor Amendment No. 1

Add a new Section 4:

1. This Act shall only apply to counties with a population in excess of 2,000,000 according to the last Federal Census.

Renumber present Section 4 to Section 5.

The amendment was read.

On motion of Senator Edwards, the amendment was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Brooks, Caperton, Doggett, Edwards, Farabee, Glasgow, Kothmann, Leedom, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Blake, Brown, Harris, Henderson, Howard, Jones, McFarland, Sarpalius, Sims, Traeger.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 441 by adding a new Section 4 to read as follows:

1. "This Act shall apply only to counties with a population in excess of 150,000 according to the last federal census".

2. Renumber the present Section 4 as Section 5.

The amendment was read.

On motion of Senator Edwards the amendment was tabled by the following vote: Yeas 23, Nays 7.

Yeas: Blake, Brown, Caperton, Doggett, Edwards, Harris, Henderson, Howard, Kothmann, Lyon, Mauzy, McFarland, Parker, Parmer, Sarpalius, Sharp, Sims, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brooks, Farabee, Glasgow, Jones, Leedom, Montford, Traeger.

Absent: Santiesteban.

The bill was passed to third reading by the following vote: Yeas 21, Nays 10.

Yeas: Brooks, Caperton, Doggett, Edwards, Farabee, Glasgow, Kothmann, Leedom, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Blake, Brown, Harris, Henderson, Howard, Jones, McFarland, Sarpalius, Sims, Traeger.

#### **SENATE RULE 96(h) SUSPENDED**

On motion of Senator McFarland and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on S.B. 960.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 960 ADOPTED**

Senator McFarland called from the President's table the Conference Committee Report on S.B. 960. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 28, 1983.)

On motion of Senator McFarland, the Conference Committee Report was adopted.

#### **SENATE RESOLUTION 752**

Senator Doggett offered the following resolution:

BE IT RESOLVED by the Texas Senate, That Senate Rule 96, Section (a), is hereby suspended in order that the conference committee on H.B. 885 may make appropriate changes in the bill to provide that the Department of Human Rights is transferred from the Texas Employment Commission to the Texas Department of Labor and Standards or any other appropriate state agency; and be it further

RESOLVED, That the specific limitation suspended by this resolution is the limitation that prohibits a conference committee from amending text on any matter that is not in disagreement; and, be it further

RESOLVED, That this suspension of the limitation is requested for the reason the Department of Human Rights is more appropriately located as a division of the Texas Department of Labor and Standards or another state agency.

The resolution was read and was adopted.

#### **SENATE RULE 74a SUSPENDED**

On motion of Senator Jones and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to S.B. 1355.

**SENATE BILL 1355 WITH HOUSE AMENDMENTS**

Senator Jones called **S.B. 1355** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.  
Committee Amendment No. 1 - P. Hill

Amend Section 12, subsection (a), subpart (1) of **S.B. 1355** by deleting the words "revenues from the lease of space in" on page 3, lines 17 and 18, and substituting the words "rents, issues and profits from".

Committee Amendment No. 2 - Millsap

Amend **S.B. 1355** by redesignating ARTICLE IV as ARTICLE V and by inserting a new ARTICLE IV to read as follows:

**ARTICLE IV**

**SECTION 1. AMENDMENT.** The State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) is amended by amending Section 10.09 and by adding Sections 10.10 and 10.11 to read as follows:

"Section 10.09. CENTRALIZED CAPITOL COMPLEX TELEPHONE [CENTREX] SYSTEM. (a) The commission shall provide centralized telephone service [the centrex system] for state agencies, each house of the legislature, and legislative agencies in the capitol complex and other state agencies which elect to subscribe to such service.

"(b) Each using entity shall make monthly payments to the commission when assessed by the commission.

"(c) Each using entity shall arrange for its terminal telephone equipment [directly with the supplying telephone company. The commission shall make terminal equipment available for using entities that choose to use that terminal equipment.]

"(d) The commission shall prepare and issue a revised centralized [centrex] telephone service directory in February of each year.

"Section 10.10. ENGINEERING AND TECHNICAL ASSISTANCE. (a) The commission may provide engineering and technical assistance to state agencies on telephone and other telecommunications matters, including customer premises equipment. If this requirement exceeds in-house capabilities, the commission may contract for the services.

"(b) If the governing officer or body of an agency consents in writing to the imposition of a surcharge to pay the cost of the commission's engineering and technical assistance to the agency, the commission may impose the surcharge.

"Section 10.11. RATE INTERVENTION. If the commission determines that there is sufficient economic impact on state government, the commission may intervene on behalf of state agencies in telecommunications rate cases and may hire special counsel and expert witnesses to prepare and present testimony. The attorney general shall represent the commission before the courts in all appeals from rate cases in which the commission intervenes."

**SECTION 2. AMENDMENT.** Subsection (c), Section 10.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

"(c) The commission may negotiate rates and execute contracts with telecommunications service utilities for services, lease transmission facilities on a competitive bid basis if possible, and develop, establish, and maintain carrier systems necessary to the operation of the telecommunications system. The commission may own or lease any facilities or equipment necessary to provide telecommunications services."

SECTION 3. Amendment. Subsection (b), Section 10.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

"(b) Each agency shall comply with the policies, guidelines, and operating procedures promulgated. The commission, with the advice of the state auditor, shall maintain records relating to the consolidated telecommunications system as necessary to enable the commission to analyze the cost effectiveness of the system to the state agencies, and shall advise the legislature at each session as to the cost effectiveness of the system. ~~[If, in the opinion of the commission, the total cost of the system reaches a level which would justify total state ownership and operation of the system, the commission shall recommend to the legislature the implementation of such action.]~~"

SECTION 4. 'REPEALER. Subdivision (3), Section 10.01, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is repealed.

SECTION 5. REPLACEMENT OF CENTREX SYSTEM. If the State Purchasing and General Services Commission decides to replace the current centrex system, the commission shall make the new service operational for the legislature and legislative agencies not later than September 1, 1984.

SECTION 6. ADVISORY COMMITTEE. (a) The State Telephone Service Advisory Committee is established.

(b) The committee is composed of:

- (1) three representatives of state agencies appointed by the governor;
- (2) three persons appointed by the lieutenant governor; and
- (3) three persons appointed by the speaker of the house of representatives.

(c) Appointments of the lieutenant governor and speaker of the house of representatives may include members of the legislature or representatives of state agencies.

(d) A member of the committee is appointed for a term expiring on the date the committee is abolished under this Act.

(e) The committee shall elect a chairman and vice-chairman from its members.

(f) The governor shall designate a time and place at which the committee shall convene for an organizational meeting. The committee shall meet at other times and places at the call of the chairman or as provided by a rule of the committee.

(g) A member of the committee may not receive compensation for service on the committee. A member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the committee.

(h) A vacancy on the committee shall be filled for the unexpired part of the term in the same manner in which the original appointment was made.

(i) The committee shall:

(1) advise the State Purchasing and General Services Commission about the specifications for the centralized telephone service;

(2) review bids received by the commission relating to the provision of the centralized telephone service; and

(3) advise and assist the commission in the determination as to which bidder or bidders should be awarded a contract.

(j) The committee is abolished and this section expires August 31, 1985.

SECTION 7. TEMPORARY PROVISION. (a) Those provisions of S.B. 179, Acts of the 68th Legislature, Regular Session, 1983 (the General Appropriations Act for the fiscal biennium beginning September 1, 1983), that are contingent on enactment of S.B. 1401, Acts of the 68th Legislature, Regular Session, apply notwithstanding the failure of S.B. 1401 to become law.

(b) Section 80, Article V of S.B. 179, may not be construed as prohibiting the State Purchasing and General Services Commission from implementing this

Article by establishing a telephone system that uses leased equipment in whole or in part.

(c) This Section expires September 1, 1985.

Committee Amendment No. 3 - Lee

Amend S.B. 1355, line \_\_\_, by adding the following SECTIONS \_\_\_, \_\_\_, and \_\_\_ at the end of Article III:

SECTION \_\_\_\_ Subsection (a), Section 23, Development Corporation Act of 1979, as amended (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) The corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of this state to nonprofit corporations incorporated under the Texas Non-Profit Corporation Act, as amended (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); but to the extent that the provisions of the general laws are in conflict or inconsistent with this Act, this Act prevails. In addition, the corporation shall have the following powers with respect to projects together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

"(1) to acquire, whether by construction, devise, purchase, gift, lease, or otherwise or any one or more of such methods and to construct, improve, maintain, equip, and furnish one or more projects located within the state or within the coastal waters of the state and within or partially within the limits of the unit under whose auspices the corporation was created or within the limits of a different unit where the governing body thereof requests the corporation to exercise its powers therein;

"(2) to lease to a lessee all or any part of any project for such rentals and upon such terms and conditions as its board of directors may deem advisable and not in conflict with the provisions of this Act;

"(3) to sell by installment payments or otherwise and convey all or any part of any project for such purchase price and upon such terms and conditions as its board of directors may deem advisable and not in conflict with the provisions of this Act;

"(4) to make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the cost of any project including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the cost of a project; and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as its board of directors may deem advisable and not in conflict with the provisions of this Act;

"(5) to make secured or unsecured loans to lending institutions under terms and conditions that, in addition to other provisions determined by the corporation, require the lending institutions to use substantially all of the net proceeds of the loans, directly or indirectly, for the making of loans to finance all or part of the cost of projects and to establish programs to encourage making loans to finance projects available; provided, however, that the yield to lending institutions shall not exceed the yield on the bonds plus 1-1/2 percent after having taken into account actual costs of insurance;

"(6) [(5)] to issue bonds for the purpose of defraying all or part of the cost of any project, to secure the payment of such bonds as provided in this Act, and to sell bonds at a price or prices determined by the board of directors or to exchange bonds for property, labor, services, material, or equipment comprising a project or incidental to the acquisition of a project; ~~and those bonds may bear interest at any rate or rates determined by the board of directors, subject to the limitations set forth in this Act];~~

“(7) [(6)] as security for the payment of the principal fo and interest on any bonds issued and any agreements made in connection therewith, to mortgage and pledge any or all of its projects or any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage and repledge any security conveyed to the corporation to secure any loan made by the corporation and to pledge the revenues and receipts therefrom;

“(8) [(7)] to sue and be sued, complain and defend, in its corporate name;

“(9) [(8)] to have a corporate seal and to use the same by causing it or a facsimile thereof to be impressed on, affixed to, or in any manner reproduced upon instruments of any nature required to be executed by its proper officers;

“(10) [(9)] to make and alter bylaws not inconsistent with its articles of incorporation or with the laws of this state with the approval of the unit under those auspices the corporation was created by resolution of the governing body for the administration and regulation of the affairs of the corporation;

“(11) [(10)] to cease its corporate activities and terminate its existence by voluntary dissolution as provided herein; and

“(12) [(11)] whether included in the foregoing or not, to have and exercise all powers necessary or appropriate to effect any or all of the purposes for which the corporation is organized which powers shall be subject at all times to the control of the governing body of the unit under whose auspices the corporation was created.”

SECTION \_\_\_\_\_. Subsections (a) and (f), Section 24, Development Corporation Act of 1979, as amended (Article 5190.6, Vernon's Texas Civil Statutes), are amended to read as follows:

“(a) The commission shall approve the contents of any lease, sale, or loan agreement made under this Act. The commission shall prescribe rules and regulations setting forth minimum standards for project eligibility and for lease, sale, and loan agreements and guidelines with respect to the business experience, financial resources, and responsibilities of the lessee, purchaser, or borrower under any such agreement, but in no event shall the commission approve any agreement unless it affirmatively finds that the project sought to be financed is in furtherance of the public purposes of this Act. To encourage and facilitate the availability of financing for small businesses under this Act, the commission may adopt rules and regulations concerning loans by a corporation to lending institutions, the proceeds of which are reloaned as permanent or temporary financing for projects. Each project shall be subject to the same project approval requirements it would have been had the financing not been arranged through a lending institution. Appeal from any adverse ruling or decision of the commission under this subsection may be made by the corporation to the District Court of Travis County. The substantial evidence rule shall apply. Rules, regulations, and guidelines promulgated by the commission and amendments thereto shall be effective only after they have been filed with the secretary of state.”

“(f) The commission shall adopt rules and regulations governing programs for small businesses receiving loans guaranteed in whole or in part by the Small Business Administration or other federal agencies. ~~[The commission may also adopt rules and regulations governing the terms and conditions of loans by a corporation to banks or other lending institutions the proceeds of which are reloaned as permanent or temporary financing of a project.]~~”

SECTION \_\_\_\_\_. Subsection (a), Section 25, Development Corporation Act of 1979, as amended (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

“(a) The principal of and the interest on any bonds issued by a corporation shall be payable solely from the funds provided for such payment and from the revenues of the one or more projects for which the bonds were authorized. The

bonds of each issue shall bear interest at a rate or rates that are fixed, variable, floating, adjustable, or otherwise, as determined by the board of directors or by a formula or contractual arrangement for the periodic determination of interest rates. The determination, formula, or arrangement must be set forth in the instrument providing for the issuance of the bonds. The bonds of each issue shall be dated, [~~shall bear interest at such rate or rates that are fixed, variable, floating, or otherwise,~~] shall mature at such time or times not exceeding 40 years from their date as may be determined by the board of directors, and may be made redeemable before maturity at the option of the board of directors at such price or prices and under such terms and conditions as may be fixed by the board of directors of the corporation prior to the issuance of the bonds."

Floor Amendment No. 1 - Leonard

Amend S.B. 1355 on third reading by adding a new section appropriately numbered:

SECTION \_\_\_\_ An examination fee paid to a state agency by an applicant for an occupational license or certification may be refunded in the discretion of the agency at any time during the refund period, which is between two and six months after the examination date, if:

- (1) the applicant did not appear to take the examination; and
- (2) the applicant provides the agency with a written request for a refund during the refund period.

An examination fee subject to refund shall be deposited to the credit of a trust account held by the state treasurer, and refunds shall be paid from that account on vouchers submitted by the collecting agency. Any examination fee held in the account after the period during which the fee may be refunded shall be deposited in the state treasury to the credit of the general revenue fund.

If another law providing for refund of an examination fee conflicts with this Act, the other law prevails.

The amendments were read.

Senator Jones moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 1355 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Jones, Chairman; Farabee, Glasgow, Vale and Howard.

#### HOUSE BILL 52 ON SECOND READING

On motion of Senator Doggett and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 52, Relating to the attorney general's duty to respond to requests for legal opinions.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Amend **H.B. 52** by adding after the word “thereafter” on line 23, page 1, the following:

....unless the Attorney General shall have, on or before such date, advised the official requesting such opinion, in writing, that the opinion will be delayed or not rendered and stating the reasons therefore.

The amendment was read and was adopted.

On motion of Senator Doggett and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### **HOUSE BILL 52 ON THIRD READING**

Senator Doggett moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 52** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **SENATE RULE 74a SUSPENDED**

Senator Mauzy moved that Senate Rule 74a be suspended as it relates to House amendment to **S.B. 480**.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Blake, Brooks, Caperton, Doggett, Farabee, Glasgow, Howard, Jones, Kothmann, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Edwards, Harris, Henderson, Leedom, McFarland.

#### **SENATE BILL 480 WITH HOUSE AMENDMENT**

Senator Mauzy called **S.B. 480** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.  
Committee Amendment No. 1 - Uher

Substitute the following for **S.B. 480**:

#### **A BILL TO BE ENTITLED AN ACT**

relating to apportionment of the state into congressional districts and to terms of office of members of the State Board of Education.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

#### **ARTICLE I**

**SECTION 1.** The congressional districts of the state are composed respectively of the counties or parts of counties as described in Article II, and each district is entitled to elect one member to the House of Representatives of the Congress of the United States.

#### **ARTICLE II**

**SECTION 1.** District 1 is composed of Bowie, Camp, Cass, Cherokee, Delta, Franklin, Harrison, Henderson, Hopkins, Lamar, Marion, Morris, Panola, Red



River, Rusk, San Augustine, Shelby, Titus, and Upshur counties; and that part of Hunt County included in enumeration districts 575, 576, 577, 578T, 578U, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 593, 594, and 595A.

SECTION 2. District 2 is composed of Anderson, Angelina, Hardin, Houston, Jasper, Liberty, Nacogdoches, Newton, Orange, Polk, Sabine, San Jacinto, Trinity, Tyler, and Walker counties; that part of Montgomery County included in census tracts 901.01, 901.03, 907.02, 908.01, and 908.03, and that part of census tract 901.02 included in blocks 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 153, 156, 157, 168, 169, 170, 171, 172, 173, 174, and 184.

SECTION 3. District 3 is composed of that part of Collin County included in census tracts 313.02, 316.01, 316.02, 316.03, 316.04, 316.05, 316.06, 316.07, 317, 318.01, 318.02, 318.03, and 320.01; and that part of Dallas County included in census tracts 2.01, 71.01, 73.01, 73.02, 74, 75.01, 75.02, 76.01, 76.02, 76.03, 76.04, 77, 78.01, 78.04, 78.05, 78.06, 78.07, 78.08, 78.09, 79.02, 79.03, 79.04, 79.05, 80, 81, 82, 94, 95, 96.03, 96.04, 96.07, 96.08, 96.09, 97.02, 128, 129, 130.02, 130.03, 130.04, 131.01, 131.02, 131.03, 132, 133, 134.01, 134.02, 135, 136.01, 136.04, 136.05, 136.06, 136.07, 136.08, 136.09, 136.10, 137.04, 137.05, 137.06, 138.01, 138.02, 181.07, 181.08, 181.09, 181.10, 181.11, 181.12, 181.13, 181.14, 185.02, 190.03, 190.04, 190.06, 190.07, 190.08, 190.09, 190.10, 190.11, 190.12, 191, 192.01, 192.02, 192.03, 192.04, 192.05, 192.06, 192.07, 193.01, 193.02, 194, 195.01, 195.02, 196, 197, and 198, that part of census tract 1 included in block groups 1 and 4, and that part of census tract 137.08 included in block group 1.

SECTION 4. District 4 is composed of Fannin, Grayson, Gregg, Kaufman, Rains, Rockwall, Smith, Van Zandt, and Wood counties; that part of Collin County included in census tracts 301, 302, 309, 310, 311, 312, and 313.01, and that part of census tract 308 included in block groups 1, 2, and 3; and that part of Hunt County included in census tracts 9901, 9902, 9903, 9904, and 9905, and that part included in enumeration districts 591, 592, 596A, 597A, 598, 599, 600, 601, 602, 603, 604, 605T, 605U, 605V, 605W, 606T, and 606U.

SECTION 5. District 5 is composed of that part of Dallas County included in census tracts 2.02, 3, 4.01, 4.02, 4.03, 5, 6.01, 6.03, 6.04, 7.01, 7.02, 8, 9, 10, 11.01, 11.02, 12, 13.01, 13.02, 14, 15.01, 15.02, 16, 17.01, 17.02, 18, 19, 21, 22.01, 22.02, 23, 24, 25, 26, 27.01, 27.02, 28, 29, 30, 31.01, 31.02, 32.01, 32.02, 33, 34, 35, 36, 37, 38, 39.01, 39.02, 40, 71.02, 72, 83, 84, 85, 90.01, 90.02, 91.01, 91.02, 92.01, 92.02, 93.01, 93.03, 93.04, 98.01, 98.02, 100, 114.02, 115, 116.01, 116.02, 117, 118, 119, 120, 121, 122.02, 122.03, 122.04, 122.05, 123, 124, 125, 126, 127, 148.01, 148.02, 150, 167.02, 168, 169.01, 169.02, 169.03, 169.04, 170, 171, 172, 173.01, 173.02, 174, 175, 176.01, 176.02, 177, 178.01, 178.03, 178.04, 178.05, 179, 180, 181.04, 181.05, 181.06, 181.15, 182.01, 182.02, 183, 184.01, 184.02, 184.03, 185.01, 186, 187, 188.01, 188.02, 189, 190.13, 190.14, and 190.15, and that part of census tract 1 included in block groups 2 and 3.

SECTION 6. District 6 is composed of Brazos, Ellis, Freestone, Grimes, Hill, Hood, Johnson, Leon, Limestone, Madison, Navarro, and Robertson counties; that part of Montgomery County included in census tracts 902.01, 902.02, 902.03, 902.04, 902.05, 902.06, 902.07, 903.01, 903.02, 904, 905, 906.01, 906.02, 906.03, 907.01, 907.03, 908.02, 909, 910, 911.01, 911.02, 912.01, and 912.02; and that part of Tarrant County included in census tracts 1024.02, 1042.01, 1042.02, 1054.01, 1054.03, 1054.04, 1055.03, 1108.03, and 1109.01, that part of census tract 1023.02 included in blocks 517 and 518, that part of census tract 1055.01 included in block groups 1 and 3, and blocks 203, 204, 209, and 210, that part of census tract 1055.04 included in block groups 2, 3, 4, and 5, that part of census tract 1109.02 included in block groups 1, 2, 3, and 8, and that part of census tract 1110.01 included in enumeration district 82, and block groups 4, 7, and 9.

SECTION 7. District 7 is composed of that part of Harris County included in census tracts 406, 420.01, 420.02, 420.03, 421, 422.01, 422.02, 422.03, 422.04, 423.01, 436.02, 437.01, 437.02, 438.01, 438.02, 438.03, 438.04, 438.05, 438.06, 439.01, 439.02, 440.01, 440.02, 440.03, 440.04, 440.05, 440.06, 441.01, 441.02, 442.01, 442.02, 442.03, 442.04, 443.01, 443.02, 443.03, 443.04, 443.05, 443.06, 444.01, 444.02, 444.03, 444.04, 445.01, 445.02, 446.01, 446.02, 446.03, 447.01, 447.02, 447.03, 448, 449, 450, 451.01, 451.02, 452.01, 452.02, 517.01, 517.02, 517.03, 517.04, 517.05, 519.01, 519.03, 526.01, 526.02, 526.03, 526.04, 527.01, 527.02, 527.03, 528, 529.01, 536.01, 536.02, 537.01, 538.01, 538.02, 541, 542.01, 542.02, 543, 544, 545.01, 545.02, 546, 547, 548, 549, 550, 551.01, 551.02, 552, 553, 554, 555.01, 555.02, 556.02, 557, and 558.02.

SECTION 8. District 8 is composed of that part of Harris County included in census tracts 210.02, 211, 212, 213.01, 213.02, 214.02, 215.01, 215.02, 217.01, 217.02, 222.01, 223.01, 223.02, 223.03, 224.01, 224.02, 224.03, 224.04, 225.01, 225.02, 225.03, 225.04, 226.01, 226.02, 227, 228.01, 228.02, 229, 230.01, 230.02, 230.03, 230.04, 231, 232, 232.99, 233, 233.99, 234, 235, 236, 237, 238, 239, 240.01, 240.02, 240.03, 241.01, 241.02, 241.03, 242, 243, 244.01, 244.02, 245.01, 245.02, 246, 247, 248, 249.01, 249.02, 249.03, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259.01, 259.02, 260, 261, 262, 263, 264, 265, 266, 267.01, 267.02, 267.03, 268, 269.01, 269.02, 270, 271, 272, 273, 273.99, 274, 275, 521.01, 521.02, 521.03, 522.01, 522.02, 529.02, 530.01, 530.03, 532.01, 532.02, 533.01, 533.02, 533.03, 534.01, 535, 537.02, 539, 540.01, 540.02, 556.01, 558.01, 559.01, and 559.02; and that part of Montgomery County included in block group 9, and blocks 135, 136, 137, 138, 139, 140, 141, 142, 143, 145, 146, 147, 148, 149, 150, 151, 152, 154, 155, 158, 159, 160, 161, 162, 163, 164, 165, 166, and 167 of census tract 901.02.

SECTION 9. District 9 is composed of Chambers, Galveston, and Jefferson counties; and that part of Harris County included in census tracts 371.01, 371.02, 372, 373.01, 373.03, 373.04, 374, and 375.

SECTION 10. District 10 is composed of Bastrop, Blanco, Caldwell, Hays, and Travis counties; and that part of Burnet County included in enumeration districts 201, 202, 203, 204, 207, 209A, 209B, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222A, 222B, 222C, 222D, 222E, 222F, 222G, 222H, 223A, 223C, 224, and 225.

SECTION 11. District 11 is composed of Bell, Bosque, Brown, Coryell, Falls, Hamilton, Lampasas, McLennan, Milam, Mills, and San Saba counties; that part of Burnet County included in enumeration districts 200, 205, 206, 208, 210, 211, and 212; and that part of Williamson County included in census tracts 202, 203, 213, and 216.

SECTION 12. District 12 is composed of that part of Tarrant County included in census tracts 1001.01, 1001.02, 1002.01, 1002.02, 1003, 1004, 1005.01, 1005.02, 1006.01, 1006.02, 1007, 1008, 1009, 1010, 1011, 1012.01, 1012.02, 1013.02, 1014.01, 1014.02, 1014.03, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022.01, 1022.02, 1023.01, 1024.01, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036.01, 1036.02, 1037.01, 1037.02, 1038, 1039, 1040, 1041, 1043, 1044, 1045.01, 1045.02, 1045.03, 1046.01, 1046.02, 1046.03, 1046.04, 1046.05, 1047, 1048.01, 1048.02, 1049, 1050.01, 1050.04, 1051, 1052, 1053, 1058, 1059, 1060.01, 1060.02, 1060.03, 1061.01, 1061.02, 1062.01, 1062.02, 1063, 1064, 1065.01, 1066, 1067, 1101.01, 1101.02, 1102.01, 1102.02, 1103, 1104.01, 1104.02, 1105, 1106.01, 1106.02, 1107.01, 1107.02, 1108.01, 1108.02, 1111.01, 1111.02, 1112.02, 1114, 1132.03, 1132.04, 1132.05, 1132.06, 1133.01, 1133.02, 1134.03, 1134.04, 1134.05, 1134.06, 1136.06, 1136.07, 1136.08, 1138.01, 1138.02, 1139, 1140.01, 1140.02, 1141, 1142.01, and 1142.02, and that part of census tract 1023.02 included in block groups 1, 2, 3, 4, and 6, and blocks 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, and 516.

SECTION 13. District 13 is composed of Archer, Armstrong, Baylor, Briscoe, Carson, Childress, Clay, Collingsworth, Cottle, Dallam, Dickens, Donley, Floyd, Foard, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Kent, King, Knox, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, and Wilbarger counties.

SECTION 14. District 14 is composed of Aransas, Austin, Bee, Burleson, Calhoun, Colorado, De Witt, Fayette, Goliad, Guadalupe, Jackson, Lavaca, Lee, Matagorda, Refugio, Victoria, Waller, Washington, and Wharton counties; that part of Brazoria County included in census tracts 617, 618, 619, and 620.01; that part of Gonzales County included in enumeration districts 225, 226, 227, 228, 231A, 232, 233, 234, 235T, 235U, 236, 237, 238T, 238U, 239, 240, 241, 242, 243A, and 243B; and that part of Williamson County included in census tracts 201, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, and 215.

SECTION 15. District 15 is composed of Atascosa, Brooks, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Karnes, La Salle, Live Oak, McMullen, San Patricio, Starr, Wilson, and Zapata counties; that part of Gonzales County included in enumeration districts 229, 230, and 231B; and that part of Nueces County included in census tract 37.

SECTION 16. District 16 is composed of Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Reeves, Ward, and Winkler counties.

SECTION 17. District 17 is composed of Borden, Callahan, Coke, Coleman, Comanche, Concho, Crosby, Eastland, Erath, Fisher, Garza, Glasscock, Haskell, Howard, Jack, Jones, Lynn, Martin, Mitchell, Montague, Nolan, Palo Pinto, Parker, Runnels, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Taylor, Throckmorton, Wise, and Young counties; and that part of Cooke County included in census tracts 9901, 9902, and 9903, and that part included in enumeration districts 326, 327, 329A, 330A, 331, 332, 333A, 333U, 334A, 334B, 334C, 334D, 334E, 334F, and 335.

SECTION 18. District 18 is composed of that part of Harris County included in census tracts 121, 201.01, 201.02, 202, 202.99, 203.01, 203.02, 203.03, 204, 205.01, 205.02, 205.03, 206.01, 206.02, 207.01, 207.02, 207.03, 207.04, 208.01, 208.02, 208.03, 209, 210.01, 214.01, 215.03, 216.01, 216.02, 218.01, 218.02, 218.03, 218.04, 219, 220.01, 220.02, 221, 222.02, 300.22, 300.23, 300.24, 301.01, 301.02, 302, 303, 304.01, 304.02, 305.01, 305.02, 306, 307.01, 307.02, 308, 309.01, 309.02, 309.03, 310, 311, 311.99, 312, 312.99, 313.01, 314.01, 314.02, 315, 316.01, 317.02, 317.03, 317.04, 318.01, 318.04, 319.01, 319.02, 320.01, 325.01, 400.25, 400.26, 401.01, 401.02, 402.01, 402.02, 403, 404.01, 404.02, 405.01, 405.02, 501, 502, 503.01, 503.02, 504, 505.01, 505.02, 506.01, 506.02, 507.01, 507.02, 508, 509.01, 509.02, 509.03, 510, 511, 512, 513, 514.01, 514.02, 515.01, 515.02, 516.01, 516.02, 518.01, 518.02, 518.03, 519.02, 520.01, 520.02, 520.03, 523.01, 523.02, 523.03, 524, 525.01, 525.02, 525.03, 525.04, 530.02, 531.01, 531.02, 531.03, and 534.02.

SECTION 19. District 19 is composed of Andrews, Bailey, Castro, Cochran, Dawson, Deaf Smith, Ector, Gaines, Hale, Hockley, Lamb, Lubbock, Parmer, Terry, and Yoakum counties.

SECTION 20. District 20 is composed of that part of Bexar County included in census tracts 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1201, 1202, 1205.01, 1205.02, 1209.02, 1301, 1302, 1303, 1305, 1306, 1307, 1308, 1309, 1310, 1401, 1402, 1403, 1404, 1407, 1408, 1409, 1410, 1411, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1509, 1510, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1614.01, 1614.02, 1616, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713, 1714, 1715, 1716, 1717, 1718, 1801, 1802, 1803, 1804, 1805, 1806, 1808, 1809.01, 1809.02, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1910.01, and 1910.02, that part of census tract 1311 included in block group 1, and

blocks 201, 202, 203, 204, 205, 212, 213, 214, 215, 216, 217, and 218, that part of census tract 1412 included in block groups 2, 3, 4, 5, and 6, and blocks 111, 113, 114, 115, 116, 117, and 120, that part of census tract 1508 included in blocks 103, 106, 116, 119, 120, and 121, that part of census tract 1511 included in block groups 1, 2, 3, and 4, and blocks 511, 513, 529, 530, 601, 611, 613, and 615, that part of census tract 1618 included in block groups 1, 2, and 3, and blocks 922 and 923, that part of census tract 1719 included in block groups 1 and 2, that part of census tract 1816 included in block group 1, and blocks 202, 203, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 220, 221, 222, 223, 230, 231, 232, 233, 234, and 235, and that part of census tract 1909 included in block groups 1, 2, 4, 5, 6, 7, and 8, and blocks 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 314, 315, 316, and 317.

SECTION 21. District 21 is composed of Bandera, Brewster, Comal, Crane, Crockett, Edwards, Gillespie, Irion, Kendall, Kerr, Kimble, Llano, McCulloch, Mason, Menard, Midland, Pecos, Presidio, Reagan, Real, Schleicher, Sutton, Terrell, Tom Green, and Upton counties; and that part of Bexar County included in census tracts 1203, 1204, 1206, 1207, 1208, 1209.01, 1210, 1211.01, 1211.02, 1212.01, 1212.02, 1219, 1810.01, 1810.02, 1811, 1812, 1813, 1814, 1817.01, 1818, 1819, 1820, 1821, 1908, 1911.01, 1911.02, 1912, 1913, 1914, 1915, 1916, 1917, and 1918, that part of census tract 1218 included in blocks 315, 318, 319, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, and 335, and that part of census tract 1909 included in blocks 319, 320, 321, 322, 323, 324, 325, 326, 327, and 328.

SECTION 22. District 22 is composed of Fort Bend County; that part of Brazoria County included in census tracts 601, 602.01, 602.02, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 620.02, 621, 622, 623, 624, 625.01, 625.02, 625.03, 626.01, 626.02, 627, 628, 629, 629.99, 630, 631, and 632; and that part of Harris County included in census tracts 407.01, 407.02, 408, 409, 410, 411, 416.01, 416.02, 417.01, 417.02, 418.01, 418.02, 419.01, 419.02, 419.03, 419.04, 419.05, 419.06, 423.02, 423.03, 423.04, 423.05, 423.06, 423.07, 424.01, 424.02, 424.03, 424.04, 425.01, 425.02, 425.03, 425.04, 426.01, 426.02, 427.01, 427.02, 433, 434.01, 434.02, 435.01, 435.02, 436.01, and 436.03.

SECTION 23. District 23 is composed of Dimmit, Kinney, Maverick, Medina, Uvalde, Val Verde, Webb, and Zavala counties; and that part of Bexar County included in census tracts 1213, 1214, 1215, 1216.01, 1216.02, 1217, 1304, 1312, 1313, 1314, 1315, 1316.01, 1316.02, 1317, 1318, 1405, 1406, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1608, 1609, 1610, 1611, 1612, 1613, 1615, 1617, 1619, 1620, 1720, 1807, 1815, and 1817.02, that part of census tract 1218 included in block groups 2, 4, and 5, and blocks 301, 302, 303, 304, 305, 306, 308, 309, 310, 311, 312, 313, 314, 316, 317, 320, 321, and 322, that part of census tract 1311 included in block group 3, and blocks 207, 208, 209, and 210, that part of census tract 1412 included in blocks 101, 102, 103, 104, 105, 106, 107, 108, 109, 112, and 119, that part of census tract 1508 included in block group 2, and blocks 101, 104, 107, 108, 109, 114, 115, 117, and 118, that part of census tract 1511 included in block groups 7 and 8, and blocks 502, 504, 505, 506, 507, 508, 518, 519, 521, 522, 523, 524, 525, 526, 527, 528, 616, 617, 618, 619, 620, 621, 622, 623, 624, and 625, that part of census tract 1618 included in blocks 911, 912, 914, 918, 920, 921, 925, 926, 927, and 928, that part of census tract 1719 included in enumeration district 1306A, and block groups 3, 4, and 6, and that part of census tract 1816 included in block group 3, and blocks 225, 226, 227, 228, and 229.

SECTION 24. District 24 is composed of that part of Dallas County included in census tracts 20, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59.01, 59.02, 60.01, 60.02, 61, 62, 63.01, 63.02, 64, 65, 67, 68, 69, 86.01, 86.02, 87.01, 87.03, 87.04, 87.05, 88.01, 88.02, 89, 101, 102, 103, 104, 105, 106,

107, 108.01, 108.02, 108.03, 109, 110.01, 110.02, 111.01, 111.02, 112, 113, 114.01, 140.02, 141.01, 141.02, 141.03, 141.04, 142, 143.01, 143.02, 143.03, 143.04, 144.01, 144.02, 145, 146, 147, 149, 151, 152.01, 152.02, 153.01, 153.02, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165.01, 165.02, 165.03, 165.05, 165.06, 165.07, 166.01, 166.02, 166.03, 166.04, 167.01, and 199.

SECTION 25. District 25 is composed of that part of Harris County included in census tracts 313.02, 316.02, 317.01, 318.02, 318.03, 320.02, 320.03, 320.04, 321.01, 321.02, 321.03, 321.99, 322.01, 322.02, 322.03, 322.04, 323.01, 323.02, 324.01, 324.02, 324.03, 324.04, 325.02, 326, 327.01, 327.02, 328.01, 328.02, 328.03, 329.01, 329.02, 329.03, 330.01, 330.02, 331, 332, 333, 334, 335.01, 335.02, 335.03, 336, 337, 338, 339.01, 339.02, 339.03, 340, 341, 342, 343.01, 343.02, 344, 345.01, 345.02, 346, 347.01, 347.02, 347.03, 347.04, 348.01, 348.02, 349.01, 349.02, 350.01, 350.02, 350.03, 350.04, 351, 352, 353.01, 353.02, 354, 355.01, 355.02, 356.01, 356.02, 356.03, 356.04, 357.01, 357.02, 357.03, 358.01, 358.02, 359.01, 359.02, 360.01, 360.02, 360.03, 360.04, 361, 361.99, 362, 363, 364, 364.99, 365.01, 365.02, 365.03, 366.01, 366.02, 367, 367.99, 368.01, 368.02, 369, 370, 373.02, 412.01, 412.02, 413.01, 413.02, 413.03, 414.01, 414.02, 415.01, 415.02, 415.03, 415.04, 416.03, 416.04, 416.05, 428.01, 428.02, 429, 430.01, 430.02, 431, and 432.

SECTION 26. District 26 is composed of Denton County; that part of Collin County included in census tracts 303, 304, 305, 306, 307, 314, 315, 319, and 320.02, and that part of census tract 308 included in enumeration district 811, and block groups 4, 5, and 6; that part of Cooke County included in enumeration districts 325, 328, 336, 337, 338A, 338B, 339T, 339U, 340T, and 340U; that part of Dallas County included in census tracts 96.05, 96.06, 97.01, 99, 137.01, 137.02, 137.07, 139, and 140.01, and that part of census tract 137.08 included in block groups 2, 3, 4, and 5; and that part of Tarrant County included in census tracts 1013.01, 1055.02, 1056, 1057.01, 1057.02, 1065.02, 1065.03, 1065.04, 1065.05, 1110.03, 1110.04, 1112.01, 1113.01, 1113.02, 1115.03, 1115.04, 1115.05, 1115.06, 1115.07, 1115.08, 1115.09, 1115.10, 1130, 1131, 1135.03, 1135.04, 1135.05, 1135.06, 1136.03, 1136.04, 1136.05, 1137.01, 1137.02, 1216.01, 1216.04, 1216.05, 1216.06, 1216.07, 1217.01, 1217.02, 1218, 1219.01, 1219.02, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, and 1229, that part of census tract 1055.01 included in blocks 201, 202, 205, 206, 207, and 208, that part of census tract 1055.04 included in block groups 1, 6, and 7, that part of census tract 1109.02 included in block groups 4, 5, 6, and 7, and that part of census tract 1110.01 included in block groups 1 and 2.

SECTION 27. District 27 is composed of Cameron, Kenedy, Kleberg, and Willacy counties; and that part of Nueces County included in census tracts 1, 2, 2.99, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 50, 50.99, 51, 54, 56, 57, 58, 59, 60, and 61, and that part of census tract 51.99 included in enumeration district 491.

### ARTICLE III

SECTION 1. Pursuant to Subsection (h) of Section 11.22 of the Texas Education Code, as amended, all members of the State Board of Education were elected in 1982 at the general election immediately following the decennial reapportionment of congressional districts in Texas. Pursuant to Subsection (i) of Section 11.22 these officers drew lots to determine which members shall serve for six years, which members shall serve for four years, and which members shall serve for two years. Notwithstanding this Act changing the boundaries of certain congressional districts, the terms of office of the members of the State Board of Education shall not be affected by such change, and each member shall be entitled to serve for the remainder of the term to which he was elected and which was determined in accordance with Subsection (i) of Section 11.22 even though the

change in boundaries may have placed his residence outside the district for which he was elected.

#### ARTICLE IV

SECTION 1. In this Act, “census tract,” “census enumeration district,” and “census county division” mean those geographic areas outlined and identified as such on official place, county, and metropolitan map series maps prepared by the United States Department of Commerce Bureau of the Census for the Twentieth Decennial Census of the United States, enumerated as of April 1, 1980. “Census block groups” are subdivisions of census tracts as defined on census metropolitan maps which differentiate block groups by the first digit of the block numbers assigned to city blocks within each tract. “Census blocks” are subdivisions of “census block groups” as defined on census metropolitan maps.

SECTION 2. Chapter 537, Acts of the 64th Legislature, Regular Session, 1975 (Article 197e, Vernon’s Texas Civil Statutes), and Chapter 2, Acts of the 67th Legislature, 1st Called Session, 1981 (Article 197f, Vernon’s Texas Civil Statutes), are repealed.

SECTION 3. Nothing in this Act affects the tenure in office of the present delegation in Congress, but this Act takes effect for the general election in 1984.

SECTION 4. It is the intention of the Texas Legislature that if any counties, census tracts, blocks, or other geographic areas have erroneously been left out of this bill, as amended, any court reviewing this legislation include such area in the appropriate district as accomplished by the Supreme Court of Texas in Smith v. Patterson, 111 Tex. 525, 242 S.W. 749 (1922).

SECTION 5. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Act that can be given effect without the invalid provision or application. For that purpose, the provisions of this Act are declared to be severable, and it is the intent of the legislature that this Act shall be construed and applied as if any invalid provision had not been included in this Act.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Mauzy moved to concur in the House amendment.

Senator Edwards made the substitute motion that the Senate not concur in the House amendment but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The substitute motion was lost by the following vote: Yeas 6, Nays 25.

Yeas: Brown, Edwards, Harris, Henderson, Jones, Leedom.

Nays: Blake, Brooks, Caperton, Doggett, Farabee, Glasgow, Howard, Kothmann, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Question recurring on the motion to concur in the House amendment, the motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Blake, Brooks, Caperton, Doggett, Farabee, Glasgow, Howard, Kothmann, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Edwards, Harris, Henderson, Jones, Leedom, McFarland.

### HOUSE BILL 940 ON SECOND READING

Senator Caperton moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 940**, Relating to fees collected by the clerks of the district courts, county courts, and county courts at law, and to the district judge supplemental salary and district court support fund.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Glasgow, Henderson, Kothmann, Lyon, McFarland, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Farabee, Harris, Howard, Jones, Leedom, Mauzy, Parker, Washington.

The bill was read second time.

Senator Caperton offered the following committee amendment to the bill:

Amend **H.B. 940**, Section 2, by deleting the language in Subsection (c) and inserting the following:

(c) Each district judge shall receive a supplemental salary from the fund in an amount necessary so that the total salary from the fund and the state equals 80 percent of the salary of a justice of the supreme court as provided by the General Appropriations Act.

The committee amendment was read.

On motion of Senator Caperton and by unanimous consent, the committee amendment was tabled.

Senator Caperton offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend Senate Committee Report as amended for **H.B. 940** as follows:

1. Amend the caption, line 17 by deleting the words "and district court support" and inserting the word "trust" instead.
2. Amend SECTION 1, lines 28 through 29 by deleting the words "and district court support" and inserting the word "trust" instead.
3. Amend SECTION 1, line 29 by deleting the amount "\$20.00" and inserting the amount "\$7.50".
4. Amend SECTION 2, lines 9 and 10 by deleting the words "and district court support" and inserting the word "trust" instead.
5. Amend SECTION 2, by inserting the following after the period in line 11:

"The district judges' supplemental salary is a local fund held in trust for the purpose of disbursements to local officers as provided by this Act and is not subject to appropriation. Any compensation paid from the fund shall be considered as paid from county funds and the state shall not be liable for any matching benefit costs as a result of the payments."

6. Amend SECTION 2, line 14 by inserting the word "monthly" between the words "a" and "supplemental".

7. Amend SECTION 2, line 15 by inserting the word “trust” between the words “the” and “fund”.
8. Amend SECTION 2, line 16 by deleting the word “state” and inserting the word “trust fund” in its place.
9. Amend SECTION 2, by deleting subsections (d), (e), and (f), and renumbering the subsequent subsections accordingly.
10. Amend SECTION 3, line 61 by deleting the amount of “\$20” and inserting the amount “\$7.50” in its place.
11. Amend SECTION 3, line 63 by deleting the words “and district court support” and inserting the word “trust” instead.
12. Amend SECTION 3, line 64 by inserting the word “trust” after the word “The”.
13. Amend SECTION 3, subsection (d) by deleting all language after the period in line 7.
14. Delete SECTION 7 and renumber the subsequent section accordingly.

The amendment was read and was adopted.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by the following vote: Yeas 19, Nays 11.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Henderson, Kothmann, Lyon, McFarland, Montford, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Uribe, Vale, Williams.

Nays: Farabee, Harris, Howard, Jones, Leedom, Mauzy, Parker, Parmer, Truan, Washington, Whitmire.

Absent: Glasgow.

#### **HOUSE BILLS ON FIRST READING**

The following bills received from the House were read the first time and referred to the Committee indicated:

**H.B. 1771**, To Committee on Health and Human Resources.

**H.B. 973**, To Committee on Education.

#### **REPORT OF STANDING COMMITTEE**

By unanimous consent, Senator Blake submitted the following report for the Committee on Administration:

**S.C.R. 138**

**H.B. 2429**

**H.B. 2448**

**H.B. 2329** (Amended)

#### **BILLS AND RESOLUTION ORDERED NOT PRINTED**

On motion of Senator Blake and by unanimous consent, the following bills and resolution were ordered not printed:

**S.C.R. 138**



H.B. 2429

H.B. 2448

**BILLS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills:

H.B. 25	H.B. 2218
H.B. 33	H.B. 2220
H.B. 42	H.B. 2224
H.B. 338	H.B. 2232
H.B. 355	H.B. 2271
H.B. 525	H.B. 2282
H.B. 559	H.B. 2284
H.B. 784	H.B. 2285
H.B. 886	H.B. 2314
H.B. 998	H.B. 2323
H.B. 1100	H.B. 2333
H.B. 1114	H.B. 2334
H.B. 1199	H.B. 2352
H.B. 1210	H.B. 2368
H.B. 1372	H.B. 2370
H.B. 1447	H.B. 2379
H.B. 1708	H.B. 2380
H.B. 1836	H.B. 2382
H.B. 1914	H.B. 2383
H.B. 1987	H.B. 2391
H.B. 2046	H.B. 2398
H.B. 2116	H.B. 2425
H.B. 2217	H.B. 2443
S.B. 772	S.B. 1425

**HOUSE BILL 36 ON SECOND READING**

Senator Lyon moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 36**, Relating to a Uniform Statutory Court Act, the change of name of certain courts, and financing of statutory county courts.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Brooks, Doggett, Edwards, Kothmann, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Blake, Brown, Caperton, Harris, Henderson, Howard, Jones, Leedom, Washington.

Absent: Farabee, Glasgow.

The bill was read second time.

Senator Lyon offered the committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 36** as follows:

Strike SECTION 2.055 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 5 of Harris

County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 5 of Harris County, Texas.

Strike SECTION 2.056 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 6 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 6 of Harris County, Texas.

Strike SECTION 2.057 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 7 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 7 of Harris County, Texas.

Strike SECTION 2.058 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 8 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 8 of Harris County, Texas.

Strike SECTION 2.059 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 9 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 9 of Harris County, Texas.

Strike SECTION 2.060 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 10 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 10 of Harris County, Texas.

Strike SECTION 2.061 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 11 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 11 of Harris County, Texas.

Strike SECTION 2.062 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 12 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 12 of Harris County, Texas.

Strike SECTION 2.063 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 13 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 13 of Harris County, Texas.

Strike SECTION 2.064 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 14 of Harris

County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 14 of Harris County, Texas.

Strike SECTION 3.004 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 15 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 15 of Harris County, Texas.

Strike SECTION 3.005 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 16 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 16 of Harris County, Texas.

The committee amendment was read.

On motion of Senator Lyon and by unanimous consent, the committee amendment was tabled.

Senator Lyon offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend H.B. 36 as follows:

Add (c) to SECTION 2.051 to read as follows:

(c) The County Clerk of Harris County is the clerk of Circuit Court No. 1 of Harris County and shall receive and collect the fees provided by law in civil matters.

Add (c) to SECTION 2.052 to read as follows:

(c) The County Clerk of Harris County is the clerk of Circuit Court No. 2 of Harris County and shall receive and collect the fees provided by law in civil matters.

Add (c) to SECTION 2.053 to read as follows:

(c) The County Clerk of Harris County is the clerk of Circuit Court No. 3 of Harris County and shall receive and collect the fees provided by law in civil matters.

Add (c) to SECTION 2.054 to read as follows:

(c) The County Clerk of Harris County is the clerk of Circuit Court No. 4 of Harris County and shall receive and collect the fees provided by law in civil matters.

The committee amendment was read.

On motion of Senator Lyon and by unanimous consent, the committee amendment was tabled.

Senator Lyon offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend H.B. 36 as follows:

1. On page 11, line 17, after the words "courts' strike the period and add in its place, ", except that practice, procedure, rules of evidence, issuance of process and writs, juries, and all other matters pertaining to the conduct of trials and hearings in the circuit courts involving those matters of concurrent jurisdiction with the district courts shall be governed by the laws and rules pertaining to district courts.

2. On page 6, line 12, after the word "assistant" add the words "position, if approved by the commissioners court"

3. On page 39, line 24, strike "Subchapter B of"

4. Amend **H.B. 36** on page 15 by adding a new subsection to Section 2.013 to read as follows:

(b) The commissioners court in Brazos County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

5. Amend **H.B. 36** as follows:

Add a new subsection, appropriately lettered, to Sections 2.005, 2.006, 2.007, 2.008, 2.009, 2.010 to read as follows:

(i) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

6. On page 37, strike lines 12-17 and substitute the following:

SECTION 3.001. (a) The Circuit Court No. 7 of Bexar County is created.

(b) The commissioners court in Bexar county shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified votes of Bexar County shall elect the judge of the Circuit Court No. 7 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

SECTION 3.002. (a) The Circuit Court No. 8 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.103(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 8 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

SECTION 3.003. (a) The Circuit Court No. 9 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 9 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

7. On page 42, insert "(a)" between "2.009." and "The" on line 10, and add a new subsection to Section 2.009 between lines 11 and 12 to read as follows:

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

8. On page 42, strike lines 14-19 and substitute the following:

SECTION 3.001. (a) The Circuit Court No. 5 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 5 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

SECTION 3.002. (a) The Circuit Court No. 6 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 6 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

SECTION 3.003. (a) The Circuit Court No. 7 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 7 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

9. Amend **H.B. 36** on page 38 by adding a new subsection to Section 3.006 to read as follows:

(b) The commissioners court in Kleberg County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

10. On page 38, strike lines 26 and 27 and substitute the following:

SECTION 3.007. (a) The Circuit Court No. 3 of Montgomery County is created.

(b) This section takes effect January 1, 1984, or on an earlier date determined by the commissioners court by an order entered on its minutes.

11. Amend **H.B. 36** by inserting a new section, appropriately numbered, to read as follows:

SECTION 3.011. The Circuit Court No. 4 of Nueces County is created.

12. Amend **H.B. 36** as follows: On page 20, strike lines 23 through 26 and substitute the following:

(b) The judge's annual salary shall be 90 percent of the annual salary including supplements of that paid the district judges of the County for a year in which the state does not compensate the counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

13. Amend **H.B. 36** as follows: On page 21, strike lines 3 through 6 and substitute the following:

(b) The judge's annual salary shall be 90 percent of the annual salary including supplements of that paid the district judges of the County for a year in which the state does not compensate the counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

The committee amendment was read.

On motion of Senator Lyon and by unanimous consent, the committee amendment was tabled.

Senator Lyon offered the following committee amendment to the bill:

Committee Amendment No. 4

Amend **H.B. 36** on page 37 by adding a new subsection to Section 2.108 to read as follows:

(b) The commissioners court in Wichita County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

The committee amendment was read.

On motion of Senator Lyon and by unanimous consent, the committee amendment was tabled.

Senator Lyon offered the following committee amendment to the bill:

Committee Amendment No. 5

Amend **H.B. 36** on page 36 by adding a new subsection to Section 2.103 to read as follows:

(b) The commissioners court in Val Verde County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in monthly installments.

The committee amendment was read.

On motion of Senator Lyon and by unanimous consent, the committee amendment was tabled.

Senator Lyon offered the following committee amendment to the bill:

Committee Amendment No. 6

Amend **H.B. 36** on page 33 by adding a new subsection to Section 2.088 to read as follows:

(b) The commissioners court in Reeves County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in monthly installments.

The committee amendment was read.

On motion of Senator Lyon and by unanimous consent, the committee amendment was tabled.

Senator Lyon offered the following committee amendment to the bill:

Committee Amendment No. 7

Amend **H.B. 36** by amending Section 1.003(d) to read as follows:

“(d)(1) A circuit court has concurrent jurisdiction with the justice court in all criminal matters for which jurisdiction is conferred on justice courts by the general laws of this state. This section does not deny the right of appeal to a circuit court from the justice court where the right of appeal to the county court exists by law.

(2) This subsection shall not apply to justice or circuit courts in Wichita County, Texas.”

The committee amendment was read.

On motion of Senator Lyon and by unanimous consent, the committee amendment was tabled.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 36** to read as follows:

(1) Strike Section 1.013.

Strike “for a year in which the state does not compensate counties as provided by Section 1.013(a)” in each of the following sections: 2.001 (Anderson County); 2.003, 2.004 (Bell County); 2.013 (Brazos County); 2.014, 2.015 (Cameron County); 2.038 (Ector County); 2.044 (Fort Bend County); 2.045, 2.046 (Galveston County); 2.049 (Gregg County); 2.050 (Guadalupe County); 2.070 (Houston County); 2.071, 2.072 (Jefferson County); 2.075 (Medina County); 2.076 (Midland County); 2.084 (Orange County); 2.085, 2.086 (Potter County); 2.088 (Reeves County); 2.089, 2.090 (Smith County); 2.097 (Taylor County); 2.098 (Tom Green County); 2.103 (Val Verde County); 2.106 (Walker County); 2.107 (Webb County); 2.108 (Wichita County); 2.109 (Wise County); 3.001, 3.002, 3.003 (Bexar County); 3.006 (Kleberg County); 3.008 (Panola County); 3.009 (Cherokee County); and 3.010 (Ector County).

(2) Amend Section 1.003(d) to read as follows:

"(d)(1) A circuit court has concurrent jurisdiction with the justice court in all criminal matters for which jurisdiction is conferred on justice courts by the general laws of this state. This section does not deny the right of appeal to a circuit court from the justice court where the right of appeal to the county court exists by law.

(2) This subsection shall not apply to justice or circuit courts in Wichita County, Texas."

(3) Delete (h) of Section 1.006.

(4) On page 7, line 8, after the word "assistant" add the words "position, if approved by the commissioners court"

(5) Amend SECTION 1.010, subsection (b), to read as follows: (b) On motion of a party [~~on agreement of the parties;~~] or on their own motion, the judges of the circuit court and district courts in a county may, upon agreement of the parties, transfer civil cases and proceedings to and from the dockets of their respective courts, except that a case or proceeding may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. If a judge is disqualified in a case or proceeding, he shall transfer the case or proceeding from his court to one of the other courts.

(6) On page 9, line 8 after the word "courts" strike the period and add in its place, "except that practice, procedure, rules of evidence, issuance of process and writs, juries, and all other matters pertaining to the conduct of trials and hearings in the circuit courts involving those matters of concurrent jurisdiction with district courts shall be governed by the Constitution, laws and rules pertaining to district courts."

(7) Add a new subsection to Section 2.002 to read as follows:

(a) The commissioners court of Angelina County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(8) Add a new subsection, appropriately lettered, to Sections 2.005, 2.006, 2.007, 2.008, 2.009, and 2.010 to read as follows:

(—) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(9) On page 42, insert "(a)" between "2.009." and "The" on line 10, and add a new subsection to Section 2.009 between lines 11 and 12 to read as follows:

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(10) Add a new subsection to Section 2.013 to read as follows:

(b) The commissioners court in Brazos County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(11) Add a new subsection to Section 2.016 to read as follows:

(a) The commissioners court of Collin County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(12) Add a new subsection to Section 2.017 to read as follows:

(a) The commissioners court of Collin County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(13) Add a new subsection to Section 2.036 to read as follows:

(a) The commissioners court of Denton County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(14) Add a new subsection to Section 2.037 to read as follows:

(a) The commissioners court of Denton County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(15) On page 12, strike lines 47 through 50 and substitute the following:

(b) The judge's annual salary shall be 90 percent of the annual salary including supplements of that paid the district judges of the county for a year in which the state does not compensate the counties as provided by section 1.013(a). The salary shall be paid in equal monthly installments.

(16) On page 12, strike lines 54 through 57 and substitute the following:

(b) The judge's annual salary shall be 90 percent of the annual salary including supplement of that paid the district judges of the County for a year in which the state does not compensate the counties as provided by section 1.013(a). The salary shall be paid in equal monthly installments.

(17) Add a new subsection to Section 2.047 to read as follows:

(a) The commissioners court of Grayson County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(18) Add a new subsection to Section 2.048 to read as follows:

(a) The commissioners court of Grayson County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(19) Add (c) to SECTION 2.051 to read as follows:

(c) The County Clerk of Harris County is the clerk of Circuit Court No. 1 of Harris County and shall receive and collect the fees provided by law in civil matters.

Add (c) to SECTION 2.052 to read as follows:

(c) The County Clerk of Harris County is the clerk of Circuit Court No. 2 of Harris County and shall receive and collect the fees provided by law in civil matters.

Add (c) to SECTION 2.053 to read as follows:

(c) The County Clerk of Harris County is the clerk of Circuit Court No. 3 of Harris County and shall receive and collect the fees provided by law in civil matters.

Add (c) to SECTION 2.054 to read as follows:

(c) The County Clerk of Harris County is the clerk of Circuit Court No. 4 of Harris County and shall receive and collect the fees provided by law in civil matters.

(20) Strike SECTION 2.055 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 5 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 5 of Harris County, Texas.

Strike SECTION 2.056 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 6 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 6 of Harris County, Texas.

Strike SECTION 2.057 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 7 of Harris



County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 7 of Harris County, Texas.

Strike SECTION 2.058 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 8 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 8 of Harris County, Texas.

Strike SECTION 2.059 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 9 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 9 of Harris County, Texas.

Strike SECTION 2.060 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 10 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 10 of Harris County, Texas.

Strike SECTION 2.061 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 11 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 11 of Harris County, Texas.

Strike SECTION 2.062 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 12 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 12 of Harris County, Texas.

Strike SECTION 2.063 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 13 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 13 of Harris County, Texas.

Strike SECTION 2.064 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 13 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 13 of Harris County, Texas.

Strike SECTION 2.064 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 14 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 14 of Harris County, Texas.

(21) Add the following subsection to Section 2.066:

(b) The commissioners court of Henderson County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(22) Add a new subsection to Section 2.067 to read as follows:

(a) The commissioners court of Hidalgo County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(23) Add a new subsection to Section 2.068 to read as follows:

(a) The commissioners court of Hidalgo County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(24) Add a new subsection to Section 2.069 to read as follows:

(a) The commissioners court of Hidalgo County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(25) Amend Sec. 2.073 by adding (c) as follows:

(c) The judge's salary in Lubbock County shall be in an amount not less than eighty-five percent (85%) of the total annual salary, including supplements paid by Lubbock County, of the judge of the 99th District Court of the State of Texas.

Amend Sec. 2.074 by adding (c) as follows:

(c) The judge's salary in Lubbock County shall be in an amount not less than eighty-five percent (85%) of the total annual salary, including supplements paid by Lubbock County, of the judge of the 99th District Court of the State of Texas.

(26) Add a new subsection to Section 2.077 to read as follows:

(a) The commissioners court of Montgomery County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(27) Add a new subsection to Section 2.078 to read as follows:

(a) The commissioners court of Montgomery County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(28) Add a new subsection to Section 2.079 to read as follows:

(a) The commissioners court of Nacogdoches County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(This is a form for amending Subchapter B to provide, in a particular county, a judge's salary other than that provided by Section 1.006(b).)

(29) Strike Section 2.080 and substitute the following:

SECTION 2.080. (a) The name of the County Court at Law of Nolan County is changed to the Circuit Court No. 1 of Nolan County.

(b) The commissioners court in Nolan County shall set the judge's annual salary. ~~[for a year in which the state does not compensate counties as provided in Section 1.013(a).]~~ The salary shall be paid in equal monthly installments.

(30) Add a new subsection to Section 2.088 to read as follows:

(b) The commissioners court in Reeves County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(31) Add a new subsection to Section 2.103 to read as follows:

(b) The commissioners court in Val Verde County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(32) Add a new Subsection (a) to 2.104 as follows:

"(a) The judge's annual salary shall be 90 percent of the annual salary including supplement of that paid the district judges of the county."

Add a new Subsection (c) to 2.105 as follows:

"(c) The judge's annual salary shall be 90 percent of the annual salary including supplement of that paid the district judges of the county."

(33) Add a new subsection to Section 2.108 to read as follows:

(b) The commissioners court in Wichita County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.103(a). The salary shall be paid in equal monthly installments.

(34) Insert two new sections, appropriately numbered, to Subchapter B, to read as follows, and renumber the following sections accordingly:

SECTION 2.110. (a) The name of the County Court at Law of McLennan County is changed to the Circuit Court No. 1 of McLennan County.

(b) The commissioners court of McLennan County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

SECTION 2.111. (a) The name of the County Court at Law No. 2 of McLennan County is changed to the Circuit Court No. 2 of McLennan County.

(b) The commissioners court of McLennan County shall set the judge's annual salary. The salary shall be paid in equal monthly installments.

(35) On page 19, strike lines 5-10 and substitute the following:

SECTION 3.001. (a) The Circuit Court No. 7 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 7 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

SECTION 3.002. (a) The Circuit Court No. 8 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 8 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

SECTION 3.003. (a) The Circuit Court No. 9 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 9 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

(36) Strike SECTION 3.004 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 15 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 15 of Harris County, Texas.

Strike SECTION 3.005 (f) and substitute the following:

(f) The District Attorney of Harris County, or his assistants, shall be in attendance upon each term and all sessions of the Circuit Court No. 16 of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their duty to represent the State of Texas in criminal cases pending in Circuit Court No. 16 of Harris County, Texas.

(37) On page 20, strike line 70 and on page 21 strike lines 1-7 and substitute the following:

SECTION 3.001. (a) The Circuit Court No. 5 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 5 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

SECTION 3.002. (a) The Circuit Court No. 6 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 6 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

SECTION 3.003. (a) The Circuit Court No. 7 of Bexar County is created.

(b) The commissioners court in Bexar County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(c) This section takes effect January 1, 1985, except that the qualified voters of Bexar County shall elect the judge of the Circuit Court No. 7 of Bexar County at the general election in 1984 for a two-year term beginning January 1, 1985.

(38) Add a new subsection to Section 3.006 to read as follows:

(b) The commissioners court in Kleberg County shall set the judge's annual salary for a year in which the state does not compensate counties as provided by Section 1.013(a). The salary shall be paid in equal monthly installments.

(39) On page 19, strike lines 46 and 47 and substitute the following:

SECTION 3.007. (a) The Circuit Court No. 3 of Montgomery County is created.

(b) This section takes effect January 1, 1984, or on an earlier date determined by the commissioners court by an order entered on its minutes.

(40) Insert a new Section 3.011 to read as follows:

SECTION 3.011. The Circuit Court No. 4 of Nueces County is created.

(41) Add new Sections 3.012 and 3.013 to Subchapter C as follows:

SECTION 3.012. (a) Circuit Court No. 7 of Tarrant County is created.

(b) The Circuit Court No. 7 of Tarrant County shall give preference to criminal cases.

(c) This section takes effect January 1, 1984.

SECTION 3.013. (a) The Circuit Court No. 8 of Tarrant County is created.

(b) The Circuit Court No. 8 of Tarrant County shall give preference to criminal cases.

(c) This section takes effect January 1, 1986.

(42) Add Section 3.014 to Subchapter C as follows:

SECTION 3.014. (a) Circuit Court No. 2 of Wichita County is created.

(b) The commissioners court of Wichita County shall set the judge's annual salary. The annual salary shall be paid in equal monthly installments.

(c) This section takes effect on September 1, 1983.

(43) Add SECTION 3.015 to Subchapter C as follows:

SECTION 3.015. The Circuit Court No. 1 of Calhoun County is created.

(a) The Circuit Court No. 1 of Calhoun County is created on January 1, 1988, or on an earlier date determined by the commissioners court by an order entered in its minutes.

(b) The commissioners court sets the salary.

(44) Add SECTION 3.016 to Subchapter C as follows:

SECTION 3.016. The Circuit Court No. 1 of Calhoun County is created.

(a) The Circuit Court No. 1 of Calhoun County is created on January 1, 1986 or on an earlier date determined by the commissioners court by an order entered in its minutes.

(b) The commissioners court sets the salary.

(45) Add SECTION 3.017 to Subchapter C as follows:

SECTION 3.017. The Circuit Court No. 1 of Rusk County is created.

(a) The Circuit Court No. 1 of Rusk County is created on January 1, 1986 or on an earlier date determined by the commissioners court by an order entered in its minutes.

(b) The commissioners court shall set the salary.

(46) Add SECTION 3.018 to Subchapter C as follows:

SECTION 3.018. The Circuit Court No. 1 of Caldwell County is created.

(a) The Circuit Court No. 1 of Caldwell County is created on October 1, 1983.

(b) The commissioners court shall set the salary.

(47) On page 20, line 1, strike "Subchapter B of".

(48) (3) On page 20, line 49, insert the following between "1970-166d;" and "1970-301;":

"1970-298a; 1970-298b; 1970-298c; 1970-298d;".

The amendment was read.

Senator Edwards offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 by striking subsection (48) and subsection (34).

The amendment to Floor Amendment No. 1 was read and was adopted.

Senator Vale offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **H.B. 36** as follows:

(1) Strike item 8 and substitute the following:

(8) Add a new subsection, appropriately lettered, to Sections 2.005, 2.006, 2.007, 2.008, 2.009, and 2.010 to read as follows:

(—) Section 5, Chapter 686, Acts of the 66th Legislature, Regular Session, 1979 (Article 3883i-3, Vernon's Texas Civil Statutes), relating to the setting of salaries of the judges of the probate courts, applies to the setting of the judge's salary.

(2) Strike item 35 and substitute the following:

(35) On page 19, strike lines 5-10 and substitute the following:

SECTION 3.001. (a) The Circuit Court No. 7 of Bexar County is created.

(b) Section 5, Chapter 686, Acts of the 66th Legislature, Regular Session, 1979 (Article 3883i-3, Vernon's Texas Civil Statutes), relating to the setting of salaries of the judges of the probate courts, applies to the setting of the judge's salary.

SECTION 3.002. (a) The Circuit Court No. 8 of Bexar County is created.

(b) Section 5, Chapter 686, Acts of the 66th Legislature, Regular Session, 1979 (Article 3883i-3, Vernon's Texas Civil Statutes), relating to the setting of salaries of the judges of the probate courts, applies to the setting of the judge's salary.

SECTION 3.003. (a) The Circuit Court No. 9 of Bexar County is created.

(b) Section 5, Chapter 686, Acts of the 66th Legislature, Regular Session, 1979 (Article 3883i-3, Vernon's Texas Civil Statutes), relating to the setting of salaries of the judges of the probate courts, applies to the setting of the judge's salary.

SECTION 3.004. (a) The Circuit Court No. 10 of Bexar County is created.

(b) Section 5, Chapter 686, Acts of the 66th Legislature, Regular Session, 1979 (Article 3883i-3, Vernon's Texas Civil Statutes), relating to the setting of salaries of the judges of the probate courts, applies to the setting of the judge's salary.

(3) Strike item 37 and substitute the following:

(37) On page 20, strike line 68-70 and on page 21 strike lines 1-7 and substitute the following:

(2) Sections 3.001, 3.002, 3.003, and 3.004 are amended to read as follows:

SECTION 3.001. (a) The Circuit Court No. 4 of Bexar County is created.

(b) Section 5, Chapter 686, Acts of the 66th Legislature, Regular Session, 1979 (Article 3883i-3, Vernon's Texas Civil Statutes), relating to the setting of salaries of the judges of the probate courts, applies to the setting of the judge's salary.

SECTION 3.002. (a) The Circuit Court No. 6 of Bexar County is created.

(b) Section 5, Chapter 686, Acts of the 66th Legislature, Regular Session, 1979 (Article 3883i-3, Vernon's Texas Civil Statutes), relating to the setting of salaries of the judges of the probate courts, applies to the setting of the judge's salary.

SECTION 3.003. (a) The Circuit Court No. 7 of Bexar County is created.

(b) Section 5, Chapter 686, Acts of the 66th Legislature, Regular Session, 1979 (Article 3883i-3, Vernon's Texas Civil Statutes), relating to the setting of salaries of the judges of the probate courts, applies to the setting of the judge's salary.

SECTION 3.004. (a) The Circuit Court No. 8 of Bexar County is created.

(b) Section 5, Chapter 686, Acts of the 66th Legislature, Regular Session, 1979 (Article 3883i-3, Vernon's Texas Civil Statutes), relating to the setting of salaries of the judges of the probate courts, applies to the setting of the judge's salary.

(4) Add item (37A) to read as follows:

(37A) On page 20, strike lines 67, 68, and 69.

The amendment to Floor Amendment No. 1 was read and was adopted.

Question recurring on adoption of Floor Amendment No. 1 as amended, Floor Amendment No. 1 as amended was adopted.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 4

Amend H.B. 36 as follows:

(1) On page 1, line 23, strike "A" and substitute "Except as provided by subsection (b) of this section, a".

(2) Reletter subsections (b)-(g) as (c)-(h) beginning on page 2, line 21, and insert a new Subsection (b) to read as follows:

(b) A circuit court has jurisdiction over the matters set out in Subsection (a)(4) of this section only if the court redesignated by this Act as the circuit court had that jurisdiction on the effective date of this Act.

The amendment was read and was adopted.

The bill as amended was passed to third reading.

### RECORD OF VOTES

Senators Washington, Henderson, Leedom, Brown, Howard and Blake asked to be recorded as voting "Nay" on the passage of the bill to third reading.

### SENATE RULE 74a SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to S.B. 1235.

**SENATE BILL 1235 WITH HOUSE AMENDMENTS**

Senator Santiesteban called S.B. 1235 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.  
Committee Amendment No. 1 - Craddick

Substitute the following for S.B. 1235:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the development and conservation of the water resources of the state and to certain powers and duties of the Texas Water Development Board and the Texas Water Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.002, Water Code, as amended, is amended to read as follows:

Section 11.002. Definitions. In this chapter and in Chapter 12 of this code:

- (1) "Commission" means the Texas Water Commission.
- (2) "Board" means the Texas Water Development Board.
- (3) "Executive Director" means the executive director of the Texas Department of Water Resources.
- (4) "Department" means the Texas Department of Water Resources.
- (5) "Beneficial use" means use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose.
- (6) "Water right" means a right acquired under the laws of this state to impound, divert, or use state water.
- (7) "Appropriator" means a person who has made beneficial use of any water in a lawful manner under the provisions of any act of the legislature before the enactment of Chapter 171, General Laws, Acts of the 33rd Legislature, 1913, as amended, and who has filed with the State Board of Water Engineers a record of his appropriation as required by the 1913 Act, as amended, or a person who makes or has made beneficial use of any water within the limitations of a permit lawfully issued by the commission or one of its predecessors.

(8) "Conservation" includes both:

- (A) the development of water resources; and
- (B) those practices, techniques, and technologies which will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water such that water supply is made available for future or alternative uses.

SECTION 2. Section 17.001, Water Code, as amended, is amended by adding Subdivision (14) to read as follows:

(14) "Conservation" includes both:

- (A) the development of water resources; and
- (B) those practices, techniques, and technologies which will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water such that water supply is made available for future or alternative uses.

SECTION 3. Section 17.125, Water Code, as amended, is amended to read as follows:

Section 17.125. Approval of an Application. (a) The board by resolution may approve an application, if, after considering the factors listed in Section 17.124 of this code and any other relevant factors, the board finds:

- (1) that the public interest requires state participation in the project;
- (2) that the political subdivision cannot reasonably finance the project without state assistance in the amount finally approved by the board; and
- (3) that in its opinion the revenue or taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision during the succeeding period of not more than 50 years.

(b) If the board finds that an applicant is not using water efficiently, the board may require the applicant to develop a conservation program to provide for more efficient use of water.

(c) The board may establish an educational and technical assistance program to assist political subdivisions in developing comprehensive water conservation plans required by this section and other sections of this code.

(d) If the political subdivision will utilize the project to furnish water or services to another political subdivision that will in turn furnish the water or services to the ultimate consumer, the requirements of the board relative to water conservation can be met through contractual agreements between the political subdivisions providing for establishment of a water conservation plan and other measures.

SECTION 4. Subdivision (9), Section 15.001, Water Code, is amended to read as follows:

(9) "Conservation" as used herein includes both:

(A) the development of water resources; and

(B) those practices, techniques, and technologies which will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water such that water supply is made available for future or alternative uses [shall include but not be limited to projects to develop water resources as well as projects to reduce consumption of water and projects to promote more efficient use of water].

SECTION 5. Section 15.106, Water Code, is amended to read as follows:

Section 15.106. Approval of an Application. (a) The [After notice and hearing, the] board, by resolution, may approve an application if after considering the factors listed in Section 15.105 of this code and any other relevant factors, the board finds:

- (1) that the public interest requires state participation in the project; and
- (2) that in its opinion the revenue or taxes [or both revenue and taxes] pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision.

(b) If the board finds that an applicant is not using water efficiently, the board may require the applicant to develop a conservation program to provide for more efficient use of water.

(c) The board may establish an educational and technical assistance program to assist political subdivisions in developing comprehensive water conservation plans required by this section and other sections of this code.

(d) If the political subdivision will utilize the project to furnish water or services to another political subdivision that will in turn furnish the water or services to the ultimate consumer, the requirements of the board relative to water conservation can be met through contractual agreements between the political subdivisions providing for establishment of a water conservation plan and other necessary measures.

SECTION 6. Chapter 11, Water Code, as amended, is amended by adding Section 11.1271 to read as follows:

Section 11.1271. Additional Requirements: Water Conservation Plans. The commission may require the formulation and submission of a water conservation plan and the adoption of reasonable water conservation measures, as defined by Subdivision (8)(B), Section 11.002, of this code.



SECTION 7. Section 11.134, Water Code, as amended, is amended to read as follows:

Section 11.134. Action on Application. (a) After the hearing, the commission shall make a written decision granting or denying the application. The application may be granted or denied in whole or in part.

(b) The commission shall grant the application only if:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;

(2) unappropriated water is available in the source of supply; ~~[and]~~

(3) the proposed appropriation:

(A) contemplates the application of water to any beneficial use;

(B) does not impair existing water rights or vested riparian rights; and

(C) is not detrimental to the public welfare; and

(4) the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation.

SECTION 8. Section 11.037, Water Code, as amended, is amended to read as follows:

Section 11.037. Water Suppliers: Rules and Regulations. Every person, association of persons, corporation, or irrigation district conserving or supplying water for any of the purposes authorized by this chapter shall make and publish reasonable rules and regulations relating to:

(1) the method of supply;

(2) the use, ~~[and]~~ distribution, and conservation of ~~[the]~~ water, as defined in Subdivision (8)(B), Section 11.002, of this code; and

(3) the procedure for applying for the water and for paying for it.

SECTION 9. This legislation takes effect only if the constitutional amendments proposed by S.J.R. No. 40, S.J.R. No. 41, and S.J.R. No. 42, 68th Legislature, Regular Session, are adopted.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Tow

Amend C.S.S.B. 1235, by striking Section 8 and substituting the following:

SECTION 8. Section 11.037, Water Code, is amended to read as follows:

Sec. 11.037. WATER SUPPLIERS: RULES AND REGULATIONS. (a) Every person, association of persons, corporation, or irrigation district conserving or supplying water for any of the purposes authorized by this chapter shall make and publish reasonable rules and regulations relating to:

(1) the method of supply;

(2) the use and distribution of the water; and

(3) the procedure for applying for the water and for paying for it.

(b) Every person, association of persons, corporation, or irrigation district conserving or supplying water for any of the purposes authorized by this chapter may make and publish reasonable rules relating to the conservation of water as defined by Subdivision (8)(B), Section 11.002, of this code.

Floor Amendment No. 2 - Polk

Amend S.B. 1235 as follows:

(1) Add an appropriately numbered section to read as follows:

SECTION . Chapter 26, Water Code, is amended by adding Sections 26.1231 and 26.1232 to read as follows:

Sec. 26.1231. NOTICE BY DEPARTMENT; INVESTIGATION BY RAILROAD COMMISSION. The department may institute a suit authorized by Subsection (c), Section 26.131 of this code only after it has notified the Railroad Commission of Texas in writing of the alleged violation or threat of violation and only after the Railroad Commission of Texas has had an opportunity to investigate the alleged violation and has declined to seek any judicial or administrative remedy or penalty.

Sec. 26.1232. NOTICE BY EXECUTIVE DIRECTOR; INVESTIGATION BY RAILROAD COMMISSION. The executive director of the department may institute a suit authorized by Section 29.047 or Section 29.048 of this code only after it has notified the Railroad Commission of Texas in writing of the alleged violation or threat of violation and only after the Railroad Commission of Texas has had an opportunity to investigate the alleged violation and has declined to seek any judicial or administrative remedy or penalty.

(2) Renumber the remaining sections of the bill accordingly.

Floor Amendment No. 3 - Polk

Amend C.S.S.B. 1235, Section 9, as follows:

On page 6, lines 24 and 25 after "S.J.R. 40," delete "S.J.R. 41, and S.J.R. 42,".

The amendments were read.

Senator Santiesteban moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 1235 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Santiesteban, Chairman; Montford, Sharp, Farabee and Truan.

#### SENATE RULE 74a SUSPENDED

On motion of Senator Sharp and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to S.B. 1026.

#### SENATE BILL 1026 WITH HOUSE AMENDMENTS

Senator Sharp called S.B. 1026 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.  
Committee Amendment No. 1 - Geistweidt

Substitute the following for S.B. 1026:

#### A BILL TO BE ENTITLED AN ACT

relating to ecological matters in the consideration and issuance of and in the operation under certain water rights permits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 11, Water Code, is amended by amending Section 11.147 and adding Section 11.148 to read as follows:

Sec. 11.147. EFFECTS OF PERMIT ON BAYS AND ESTUARIES AND INSTREAM USES. (a) In this section, "productivity" means the harvest of a fishery that is determined by the commission to be economically important to and ecologically characteristic of a given estuarine system, utilizing data and relationships developed in studies mandated by this code and in other studies.

(b) In its consideration of an application for a permit to store, take, or divert water, the commission shall assess the effects, if any, of the issuance of the permit on the bays and estuaries of Texas and may not issue a permit unless it determines and finds that the ecological health and productivity of the bays and estuaries will not be significantly impaired if the permit is issued and all of the authorizations included in the permit are fully utilized, or that the applicant has an overriding interest.

(c) For purposes of making a determination under Subsection (b) of this section, the commission, among other factors, shall consider:

(1) the salinity of a bay or estuary and the need for freshwater inflow to supply nutrients to preserve the ecological health and productivity of the bay or estuary;

(2) the projected effects of a permit on the quantity of inflows to a bay or estuary;

(3) the quantity of water requested and the proposed use of the water by the applicant, as well as the needs of those who would be served by the applicant;

(4) projected needs of users within the basin;

(5) economic conditions that affect fishing and the economic value of production of estuarine species;

(6) competition among estuarine species within a bay or estuary; and

(7) fish and wildlife management laws.

(d) Under Subsection (b) of this section, there is a rebuttable presumption that the applicant has an overriding interest if the proposed use of water is primarily for a domestic, municipal, industrial, irrigation, livestock, or nonconsumptive use or for mining of resources used for fuel, or a combination of those uses.

(e) In its consideration of an application to store, take, or divert water, the commission shall consider the effect, if any, of the issuance of the permit on the maintenance of adopted stream standards and on the ecological health and existing instream uses of the stream or river to which the application applies, and if the commission determines and finds that there will be a significant net adverse impact to the fish and wildlife habitat as a result of granting a permit, the commission may require appropriate mitigation of those net impacts, but the mitigation requirements must be reasonable in light of all the circumstances, including the circumstances of the applicant.

(f) The commission may include terms or conditions in a permit to protect bays and estuaries and instream uses.

(g) On receipt by the commission of an application for a permit to store, take, or divert water, the Parks and Wildlife Department must be notified and sent a copy of the permit application and any subsequent amendments. At its option, the Parks and Wildlife Department shall be a party in all hearings on applications for permits to store, take, or divert water. Not later than five days before the date set for a hearing under this section, the Parks and Wildlife Department must notify the commission in writing whether or not the Parks and Wildlife Department will be a party to the hearing, and if the Parks and Wildlife Department does not give this notice in the manner provided, the Parks and Wildlife Department may not be a party to the hearing.

(h) The failure of the Parks and Wildlife Department to appear as a party does not relieve the commission of the responsibility provided by this section.

Sec. 11.148. EMERGENCY SUSPENSION OF PERMIT CONDITIONS. The commission may suspend permit conditions designed to maintain the ecological health and productivity of the bays and estuaries and the fish and wildlife habitat of a stream or river if the commission finds that an emergency need exists for water and that the need cannot practically be met in other ways, including the imposition of all reasonable conservation methods.

SECTION 2. Chapter 5, Water Code, is amended by adding Section 5.358 to read as follows:

Sec. 5.358. BOND FOR DELAY COSTS. (a) The legislature finds that often a delay in construction of a project caused by an appeal or legal contest of a commission order results in substantially increased costs for the project that will ultimately be borne by the public and particularly burdens the economically disadvantaged, and therefore, declares it to be the public policy of the state to minimize so far as possible those costs to the public while at the same time recognizing the legitimate rights of others to full appeal of or to contest a commission order.

(b) In this section, "project" means an engineering undertaking or a work, improvement, or facility used or to be used for the impoundment, conservation, control, storage, development, preservation, transportation, or distribution of water primarily for domestic, municipal, industrial, irrigation, mining, or hydroelectric power or any combination of those uses or flood control or drainage of water.

(c) In an order of the commission granting an application or issuing a permit or an amendment to a permit relating to or authorizing a project to store, take, divert, or impound water, the commission shall establish the amount of security it determines would be necessary to compensate the successful applicant for all costs incurred in the delay of the construction or work on the project plus reasonable attorney's fees incurred by the applicant in an appeal or contest of the commission's order, if the commission's order is appealed or contested by further legal proceedings effectively causing postponement of the construction or work on the project. In establishing the amount of security, the commission shall assume that all appellate steps will be exhausted.

(d) If at the time an appeal or a petition contesting the commission's order granting an application or issuing a permit is filed in court or when the pleadings in a suit are amended, the appeal or pleadings include grounds based on disputing the commission's findings and determinations pertaining to bays and estuaries or instream uses under Section 11.147 of this code, the person who files the appeal or contest, other than the applicant, must file a cash bond or corporate surety bond approved by the court in the amount established by the commission in its order under Subsection (c) of this section. The bond shall be conditioned on the person filing the appeal or contest paying to the applicant all amounts of money and costs adjudged under Subsection (e) of this section. The trial court, at any time after a hearing, may determine and order an increase or decrease in the amount of the bond that the court considers justified by evidence relating to the costs due to delay of the construction or work on the project.

(e) If the commission's order granting an application or issuing a permit is upheld by the court or becomes uncontested so that the construction or work is authorized, the applicant may recover, and the person filing the appeal or contest and the surety on the bond, to the extent of the surety's liability under the bond, are jointly and severally liable for all costs due to delay of the construction and work on the project that are due solely to the appeal or contest, plus reasonable attorney's fees incurred in the appeal or contest. If a judgment is rendered against the person filing the appeal or contest and his surety in the amount of the costs due to the delay of the construction and work on the project plus attorney's fees, the applicant shall also be entitled to reasonable attorney's fees and court costs incurred in obtaining the judgment.

SECTION 3. It is the intent of the legislature that the provisions of this Act are nonseverable, and that if any provision of this Act is held invalid or unconstitutional, the remaining provisions of this Act have no force or effect.

SECTION 4. This Act takes effect on adoption of the constitutional amendments proposed by S.J.R. 40, S.J.R. 41, and S.J.R. 42, 68th Legislature, Regular Session, 1983. If all of these amendments are not adopted, this Act has no effect.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Geistweidt

Amend S.B. 1026, on page 5, line 27, between "estuaries" and "under", by inserting "or instream uses".

Floor Amendment No. 2 - Kemp

Amend C.S.S.B. 1026, Section 4, as follows:

On page 6, lines 14 and 15 after "S.J.R. 40," delete "S.J.R. 41, and S.J.R. 42,".

The amendments were read.

Senator Sharp moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 1026 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sharp, Chairman; Santiesteban, Truan, Montford and Farabee.

#### SENATE JOINT RESOLUTION 40 WITH HOUSE AMENDMENTS

Senator Montford called S.J.R. 40 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Craddick

Amend S.J.R. 40 by striking all below the resolving clause and substituting the following:

SECTION 1. That Article III of the Texas Constitution be amended by adding Sections 49-d-2, 49-d-3, 49-d-4, and 50-d to read as follows:

Sec. 49-d-2. (a) The Texas Water Development Board may issue additional Texas Water Development Bonds up to an additional aggregate principal amount of \$300 million. Of the additional bonds authorized to be issued, \$150 million of those bonds are dedicated for use for the purposes provided by Sections 49-c and 49-d of this article, and the other \$150 million of the additional bonds are dedicated for use for the purposes provided by Section 49-d-1 of this article.

(b) The Texas Water Development Board shall issue the additional bonds authorized by this section for the terms, in the denominations, form, and installments, on the conditions, and subject to the limitations provided by Sections

49-c, 49-d, and 49-d-1, of this article, and by laws adopted by the legislature implementing those sections.

(c) Proceeds from the sale of the bonds authorized by this section shall be deposited in the Texas Water Development Fund to be administered and invested as provided by law.

(d) Financial assistance made available for the purposes provided by this section is subject only to availability of funds. The requirement of Section 49-c of this article that financial assistance terminate on December 31, 1982, does not apply to financial assistance made available under this section.

(e) Bonds issued under this section shall bear interest as provided by Section 65 of this article.

Section 49-d-3. (a) The legislature by law may create one or more special funds in the state treasury for use for or in aid of water development, water conservation, water quality enhancement, or flood control and drainage or any combination of those purposes and shall provide the manner in which deposits will be made to each special fund, the purposes for which each special fund may be used, and the manner and procedure for making money in each special fund available for use for those purposes.

(b) The legislature by law may make money in a special fund available for use for the purposes for which the fund was created by grants, loans, or any other means and may appropriate money to any of the special funds to carry out the purposes of this section.

(c) The legislature by law may provide that appropriations to a special loan fund are not considered appropriations for the purposes of Article VIII, Section 22(a), of this constitution. Loans made from appropriations to a special loan fund under this section shall be repaid with interest to the general revenue fund.

(d) Money deposited in a special fund created under this section may not be used to finance or aid any project that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable water requirements for the next-ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

Section 49-d-4. (a) In addition to other programs authorized by this constitution, the legislature by law may provide for the creation, administration, and implementation of a bond insurance program to which the state pledges its general credit in an amount not to exceed \$250 million to insure the payment in whole or in part of the principal of and interest on bonds or other obligations that are issued by cities, special governmental districts and authorities, and other political subdivisions of the state for use for or in aid of water development, water conservation, or water quality enhancement.

(b) The legislature by law shall designate the state agency to administer the bond insurance program and may authorize that agency to execute insurance contracts that bind the state to pay the principal of and interest on the bonds if the bonds are in default or the bonds are subject to impending default, subject to the limits provided by this section and by law.

(c) The payment by the state of any insurance commitment made under this section must be made from the first money coming into the state treasury that is not otherwise dedicated by this constitution.

(d) Notwithstanding the total amount of bonds insured under this section, the total amount paid by the state under this section, excluding the costs of administration, may not exceed \$250 million.

(e) The legislature by law shall establish the ratio of bonds insured to the total liability of the state.

Sec. 50-d. (a) The legislature by law may authorize the Texas Water Development Board to provide for, issue, and sell general obligation bonds of the

State of Texas designated as Texas Rural Water Conservation Bonds in an amount not to exceed \$200 million.

(b) The Texas Water Development Board shall deposit the proceeds from the sale of Texas Rural Water Conservation Bonds in a fund created in the state treasury and designated the rural water conservation fund.

(c) Money in the rural water conservation fund shall be used by the Texas Water Development Board as provided by the legislature to make financial assistance available for rural water conservation projects as provided by law to rural political subdivisions as defined by law.

(d) While any of the bonds authorized by this section or any interest on those bonds is outstanding and unpaid, there is appropriated out of the first money coming into the state treasury in each fiscal year that is not otherwise appropriated by this constitution, an amount that is equal to the amount sufficient to pay the principal of and interest on those bonds that mature or become due during that fiscal year, less the amount in the sinking fund at the close of the preceding fiscal year.

(e) The legislature may provide for the investment of money available in the rural water conservation fund and the interest and sinking fund established for the payment of bonds issued under this section. Income from the investments shall be used as provided by law.

(f) From the money received from the sale of bonds issued under this section, the Texas Water Development Board shall deposit in the interest and sinking fund an amount sufficient to pay the interest that becomes due during the fiscal year in which the bonds were issued. After all bonds issued under this section are fully paid with interest, or after sufficient money is on deposit in the interest and sinking fund to pay all future maturities of principal and interest, any additional money received shall be deposited in the rural water conservation fund.

(g) If the legislature enacts enabling legislation in anticipation of the adoption of this amendment, the legislation is not void by reason of its anticipatory nature.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize the issuance of an additional \$300 million of Texas Water Development Bonds, to create special water funds for water development, water conservation, water quality enhancement, and flood control and drainage and a bond insurance program for water development, water conservation, and water quality enhancement, and to authorize \$200 million in Texas Rural Water Conservation Bonds and creation of the rural water conservation fund to provide financial assistance to certain rural political subdivisions."

Floor Amendment No. 2 - Delay

Amend S.J.R. 40 as follows:

(1) On page 2, line 9, insert between "drainage" and "or" the words "subsidence control."

(2) On page 3, strike lines 11 and substitute the following: conservation, or water quality enhancement, drainage, flood control, or subsidence control.

(3) On page 4, amend line 9 in the following manner: development, water conservation, and water quality enhancement (-) , drainage, flood control, and subsidence control.

The amendments were read.

Senator Montford moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.J.R. 40** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Montford, Chairman; Farabee, Santiesteban, Sharp and Truan.

#### **SENATE BILL 1236 WITH HOUSE AMENDMENTS**

Senator Howard called **S.B. 1236** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.  
Committee Amendment No. 1 - Craddick

Substitute the following for **S.B. 1236**:

#### **A BILL TO BE ENTITLED AN ACT**

relating to creation, administration, and operation of a loan assistance program for water conservation, water development, water quality enhancement, or flood control and drainage and a bond insurance program for water conservation, water development, or water quality enhancement, or any combination of these purposes and to certain powers and duties of the Texas Department of Water Resources.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 15.004, Water Code, is amended to read as follows:

Section 15.004. **TRANSBASIN DIVERSION.** Money on deposit in a fund created under Article III, Section 49-d-3, [~~Article VIII, Section 24(b),~~] of the Texas Constitution shall not be used to finance or in aid of any project under this chapter that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

**SECTION 2.** Subchapter C, Chapter 15, Water Code, as amended, is amended to read as follows:

#### **SUBCHAPTER C. WATER LOAN ASSISTANCE PROGRAM**

Section 15.101. **WATER LOAN ASSISTANCE FUND.** (a) The water loan assistance fund is created, to be funded by direct appropriation and by the board at its discretion from the fund.

(b) Except as provided by Subsection (c) of this section, repayments [Repayments] of loans shall be deposited in the water assistance fund.

(c) Repayments of loans composed of direct appropriations made to the water loan assistance fund and interest on those loans shall be deposited in the general revenue fund.

Section 15.102. **FINANCIAL ASSISTANCE.** The loan fund may be used by the board to provide loans of financial assistance to political subdivisions for the construction, acquisition, improvement, or enlargement of projects as defined by legislative appropriations, this chapter, and the board rules.

Section 15.103. **APPLICATION FOR ASSISTANCE.** (a) In an application to the board for a loan of financial assistance from the loan fund, the applicant shall include:

- (1) the name of the political subdivision and its principal officers;
- (2) a citation of the law under which the political subdivision operates and was created;



- (3) the total cost of the project;
- (4) the amount of state financial assistance requested;
- (5) the plan for repaying the total cost of the project; and
- (6) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for a loan of financial assistance from the loan fund unless it is submitted in affidavit form by the officials of the political subdivision. The board shall prescribe the affidavit form in its rules.

(c) The rules shall not restrict or prohibit the board from requiring additional factual material from an applicant.

Section 15.104. CERTIFICATE OF COMMISSION OR APPROVAL BY COMMISSION. (a) Except as provided by Subsection (b) of this section, the board shall not deliver funds pursuant to an application for a loan of financial assistance from the loan fund until the political subdivision has furnished the board a resolution adopted by the commission certifying:

- (1) that an applicant proposing surface-water development has the necessary water right authorizing it to appropriate and use the water that the project will provide; or

- (2) that an applicant proposing underground water development has the right to use water that the project will provide.

(b) If an applicant includes a proposal for a waste water treatment plant, the part of the application relating to the waste water treatment plant does not need to be certified by the commission, but the board may not deliver funds for the waste water treatment plant until the political subdivision has obtained written evidence of approval of the plans for the waste water treatment plant from the executive director.

Section 15.105. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application from a political subdivision for a loan of financial assistance from the loan fund, the board shall consider but is not limited to:

- (1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

- (2) the availability of revenue to the political subdivision from all sources for the ultimate repayment of the cost of the project, including all interest;

- (3) the relationship of the project to overall statewide needs; and

- (4) the ability of the applicant to finance the project without state assistance.

Section 15.106. APPROVAL OF APPLICATION. After notice and hearing, the board, by resolution, may approve an application if after considering the factors listed in Section 15.105 of this code and any other relevant factors, the board finds:

- (1) that the public interest requires state participation in the project; and

- (2) that in its opinion the revenue or taxes or both revenue and taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision.

Section 15.107. METHOD OF MAKING LOANS OF FINANCIAL ASSISTANCE. (a) The board may make loans of financial assistance available to successful applicants in any manner that it considers economically feasible including:

- (1) a contract with a political subdivision under terms and conditions and within limitations established by the board for the payment of the principal of or interest on or both the principal of and interest on bonds or other obligations issued or to be issued by the political subdivision;

- (2) purchase of the bonds or other obligations of a political subdivision for the purpose of providing the political subdivision's share of any cost-sharing required as a participant in or local sponsor of any federal project; or

(3) purchase of the bonds or other obligations of a political subdivision for the purpose of completely or partially financing the project for which the application is being submitted.

(b) Contracts entered into under Subdivision (1) of Subsection (a) of this section may cover all or any part of the debt service requirements in a given year and may cover debt service requirements in as many years of an issue as the board considers appropriate.

(c) In a determination on a loan for financial assistance, the board may approve interest deferral or the capitalization of interest costs and may approve periods of repayment for the loans of up to 50 years.

Section 15.108. RECOMMENDATIONS FOR FUNDING BY LEGISLATURE. (a) If money is not available in the loan fund to fund all approved projects, the board shall prepare and submit with its biennial budget request to the Legislative Budget Board and to the presiding officers of each house of the legislature a list of all projects approved by the board under this subchapter for which sufficient money is not available in the loan fund.

(b) The list of approved projects submitted to the Legislative Budget Board and to the presiding officers of each house of the legislature shall include relevant information relating to each project and recommendations relating to the terms under which loans of financial assistance should be made to each applicant and projected amounts of money that will be required each biennium to fund each project to its completion.

Section 15.109. DELIVERY OF LOANS OF FINANCIAL ASSISTANCE. (a) As money becomes available in the loan fund, the board shall deliver the funds under the approved applications.

(b) The board shall deliver money in the fund that is provided by legislative appropriation in the manner provided by and subject to the restrictions of the legislative appropriation [The board may provide financial assistance by using the money in the loan fund to contract with a political subdivision under terms and conditions and within limitations established by the board, for the payment of the principal of or interest on or both the principal of and interest on bonds or other obligations issued or to be issued by a political subdivision].

Section 15.110. REQUIREMENTS FOR POLITICAL SUBDIVISIONS. (a) Subject only to constitutional limitations, all contracting political subdivisions may issue and execute those bonds, notes, or other obligations necessary to conform to and comply with repayment obligations adopted by the board.

(b) Loans of financial [Financial] assistance to a political subdivision under this subchapter shall be repaid to the board, and the payments made to the board by the political subdivision for these [this] loans of financial assistance shall be made in compliance with terms and conditions established by the board.

Section 15.111 [15.108]. APPROVAL AND REGISTRATION. The board shall not contract for the payment of the principal of or interest on or both the principal of and interest on any bonds or other obligations that have not been approved by the attorney general and registered by the comptroller.

Section 15.112 [15.109]. CONTRACTS INCONTESTABLE. Contracts entered into by the board for the payment of the principal of or interest on or both the principal of and interest on bonds or other obligations issued by a political subdivision are valid, binding, and incontestable after:

(1) approval of the bonds or other obligations by the attorney general;  
(2) registration of the bonds or other obligations by the comptroller; and  
(3) purchase by and delivery of the bonds or other obligations to the purchaser.

Section 15.113 [15.110]. INSPECTION OF PROJECTS. (a) The department may inspect the construction of a project any time to assure that:

- (1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and
- (2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the department does not subject the state to any civil liability.

Section 15.114 [15.111]. **ALTERATION OF PLANS.** After board approval of engineering plans, a political subdivision shall not make any substantial or material alteration in the plans unless the executive director authorizes the alteration.

Section 15.115 [15.112]. **CERTIFICATE OF APPROVAL.** The board may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

- (1) failure to construct the project according to the director's plans as approved by the board or as altered with the executive director's approval;
- (2) failure to construct the works in accordance with sound engineering principles; or
- (3) failure to comply with any terms of the contract.

[Sections 15.116 [15.113] to 15.200 [15.300] reserved for expansion]

SECTION 3. Chapter 15, Water Code, as amended, is amended by adding Subchapter D to read as follows:

#### **SUBCHAPTER D. WATER BOND INSURANCE PROGRAM**

Section 15.201. **DEFINITIONS.** (a) In this subchapter:

(1) "Program" means the water bond insurance program.

(2) "Bonds" means bonds or other obligations of a political subdivision issued to provide funds for water conservation, water development, and water quality enhancement.

(3) "Insured bonds" means bonds or other obligations insured by the state under this subchapter.

(4) "Issuer" means a political subdivision issuing bonds or other obligations eligible to be insured under the program.

(5) "Maximum aggregate insurance coverage" means that dollar amount that equals two times the maximum amount of money that the state is authorized to pay under the program as provided by Article III, Section 49-d-3, of the Texas Constitution.

(b) Notwithstanding the definition in Subdivision (6), Section 15.001 of this code, in this subchapter, "project" means any undertaking or work to conserve, convey, and develop surface or subsurface water resources of the state, to provide for the maintenance and enhancement of the quality of the water of the state, and to carry out other purposes defined by board rules.

Section 15.202. **CREATION AND ADMINISTRATION OF PROGRAM.**

(a) The water bond insurance program is created pursuant to Article III, Section 49-d-3, of the Texas Constitution to insure to holders of insured bonds that in the event of default or impending default the state will pay, to the extent authorized by this subchapter, the principal of or interest on or both principal of and interest on the bonds.

(b) The board shall administer the program in the manner provided by this subchapter and by rules of the board.

Section 15.203. **ELIGIBLE BONDS.** (a) Only revenue, general obligation, tax, or combination bonds issued by a political subdivision for a project qualifying for assistance under this subchapter and board rules are eligible to be insured under the program.

(b) Bonds issued for a term longer than 50 years are not eligible to be insured under the program.

Section 15.204. RULES. The board shall adopt necessary rules to carry out this subchapter.

Section 15.205. INSURANCE. The board may pledge the general credit of the state, to the extent authorized by Article III, Section 49-d-3, of the Texas Constitution, to insure the payment of the principal of or interest on or both the principal of and interest on eligible bonds issued by an issuer in the event of default or impending default of the insured bonds.

Section 15.206. APPLICATION FOR INSURANCE. (a) An issuer may apply in writing to the board for the insurance of its bonds.

(b) The application must include the following information:

- (1) the name of the issuer;
- (2) citations of the laws under which the issuer is created and operates and under which the bonds to be insured are to be issued;
- (3) the total amount of bonds for which insurance coverage is sought and the anticipated interest rate on the bonds;
- (4) the term for which the bonds are to be issued;
- (5) the purpose or purposes for which the bonds are to be issued;
- (6) financial information relating to the issuance of the bonds and to the financial stability and future of the issuer; and
- (7) any other information the board requires by its rules or otherwise considers necessary in making a determination of the application.

(c) The board by rule shall prescribe the form and procedure for submitting and processing an application.

Section 15.207. CONSIDERATIONS IN PASSING ON APPLICATION. In addition to criteria established in its rules, the board in passing on an application shall consider:

- (1) the purpose or purposes for which the issuer is issuing the bonds;
- (2) the financial ability of the issuer to meet its obligations under the bonds;
- (3) the risk to the State of Texas in insuring the bonds and the ability of the state to pay the insurance coverage; and
- (4) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring similar state assistance and the benefits of those projects to other areas.

Section 15.208. APPROVAL OF APPLICATION. (a) After notice and hearing, the board by resolution may approve an application if, after considering the information in the application and presented at the hearing, criteria established by this subchapter, and the rules and other relevant factors, the board finds:

- (1) that the bonds are being issued to finance a project that serves the public interest;
- (2) that there is strong evidence and a high degree of certainty that the issuer will be able to meet its obligations under the bonds; and
- (3) that an applicant proposing surface water development has the necessary water right authorizing it to appropriate and use the water which the project will provide.

(b) If the board finds that an applicant is not using water efficiently, the board may require the applicant to develop a conservation program to provide for more efficient use of water.

(c) The board may establish an educational and technical assistance program to assist political subdivisions in developing comprehensive water conservation programs required by this section and other sections of this code.

(d) If the issuer plans to utilize the project to furnish water or services to another political subdivision that in turn plans to furnish the water or services to the ultimate consumer, the requirements of the board relative to water conservation can be met through contractual agreements between the political subdivisions

providing for establishment of a water conservation program and other necessary measures.

Section 15.209. CONTRACTS, AGREEMENTS, AND OTHER DOCUMENTS. (a) On approval of an application, the board shall enter into a contract with the issuer for the insurance of the bonds on terms and conditions agreed to by the parties. The terms and conditions must comply with this subchapter and rules adopted by the board.

(b) The insurance contract shall include:

- (1) the extent of the insurance coverage;
- (2) the terms and conditions of the insurance coverage;
- (3) rights in addition to those provided by law reserved by the board against the issuer in the event the board must pay all or part of the insurance coverage; and
- (4) any other provision required in order to be in compliance with the board's rules.

(c) The board shall execute any other documents necessary to legally bind the state to insure payment to the bondholders on default or impending default.

(d) For the insurance coverage of bonds to be effective, it must be approved by the attorney general as to the legality of the insurance coverage. Documents relating to the insurance of the bonds shall be submitted to the attorney general for approval at the same time as the bonds and records relating to the issuance of the bonds are submitted for approval. The bonds issued by a political subdivision and the insurance coverage approved by the board are valid, binding, and incontestable after:

- (1) approval by the attorney general;
- (2) registration by the comptroller; and
- (3) payment by and delivery to the buyer.

Section 15.210. INSURANCE COVERAGE LIMITATION. No application may be approved if its approval would cause the total principal balance of all insurance coverage previously executed by the board and then outstanding to exceed the maximum aggregate insurance coverage.

Section 15.211. INSURANCE FEE. (a) The board shall adopt a schedule of fees to be charged an issuer for insurance coverage provided under this subchapter.

(b) Fees charged by the board under this section shall be calculated to provide a reasonable reserve against defaults and impending defaults.

(c) Fees collected under this section shall be deposited in a special reserve fund created in the state treasury for the purpose of paying amounts on default or impending default of any bonds without resorting to the general credit of the state.

Section 15.212. TOTAL AMOUNT OF BONDS THAT MAY BE INSURED. The aggregate amount of bonds insured and outstanding may not be more than the maximum aggregate insurance coverage.

Section 15.213. PAYMENT BY STATE. (a) On receipt by the executive director from the paying agent for any insured bond of a written notice by registered or certified mail that a payment on the bond is due but has not been made to the paying agent by the issuer and that the issuer's reserves are insufficient to cover the payment, the executive director shall have a deposit of funds made with the paying agent sufficient to cover the payment due on the bond less any amount already held by the paying agent to pay the principal of and interest on the bond.

(b) On transfer of the payment to the paying agent under Subsection (a) of this section and on receipt of the uncanceled bond or coupon, the state becomes the owner of the bond or coupon and is subrogated to the rights of the bondholder with respect to the amount paid by the state.

(c) After making payment on the bonds under Subsection (a) of this section, the board shall attempt to collect from the issuer the amount paid by the state. The board may enter into agreements for the issuer to pay those claims, may enforce any

provisions of the bonds relating to actions that may be taken by bondholders on default, or may sue the issuer to collect amounts paid by the state. The attorney general, at the request of the board, shall take all necessary legal action to assist the board in carrying out this subsection.

(d) All money collected by the board under this section shall be deposited in the special reserve fund up to the amount used from that fund to pay the defaulted bonds.

Section 15.214. REFUNDING BONDS. Without the express written consent of the board, insurance provided by the board under this subchapter shall not extend to refunding bonds issued to replace bonds that have been insured by the board. The board may give its consent under procedures provided by its rules.

Section 15.215. INSPECTION OF PROJECTS. (a) The department may inspect the construction of a project being constructed with proceeds of revenue bonds insured by the board any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the department does not subject the state to any civil liability.

Section 15.216. ALTERATION OF PLANS. After board approval of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the executive director authorizes the alteration.

Section 15.217. CERTIFICATE OF APPROVAL. The board may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to plans as approved by the board or as altered with the executive director's approval;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any terms of the contract.

**[Sections 15.218-15.300 reserved for expansion]**

SECTION 4. Subchapter E, Chapter 15, Water Code, is amended by adding Section 15.3061 and amending Sections 15.301, 15.322, and 15.323 to read as follows:

Section 15.301. FUND CREATED. There is created a [revolving] fund in the state treasury to be known as the storage acquisition fund which is to be funded by direct appropriations and by transfers from the fund at the discretion of the board.

Section 15.3061. LIST OF APPROVED PROJECTS. (a) If the board makes the findings required in Section 15.306 and if money is not available in the fund, the board shall prepare and submit with its biennial budget request to the Legislative Budget Board and to the presiding officers of each house of the legislature a list of all projects approved by the board under this subchapter.

(b) The list of approved projects submitted to the Legislative Budget Board and to the presiding officers of each house of the legislature shall include relevant information relating to each project and recommendations relating to the priorities for funding.

Section 15.322. DISPOSITION OF PROCEEDS. (a) Except as provided by Subsection (b) of this section, the [The] money received from any sale, transfer, or lease of facilities, or in the case of a sale or transfer involving revenue bonds, the money received as matured interest or principal on the bonds shall be placed in the general revenue fund [water assistance fund].

(b) If money received from a sale, transfer, or lease of facilities, or in the case of a sale or transfer involving revenue bonds, if the money received as matured

interest or principal on the bonds, is money derived originally from the appropriation made by the 67th Legislature, in Section 2, Chapter 12, Acts of the 67th Legislature, 1st Called Session, 1981, or interest earned on that money, the money received as matured interest or principal on the bonds shall be placed in a special account in the water assistance fund.

Section 15.323. SALE OF STORED WATER. (a) The board may sell any unappropriated public water of the state and other water acquired by the state that is stored by or for it. The price shall be determined by the board.

(b) Except as provided by Subsection (c) of this section, [The] money received from any sale shall be placed in the general revenue fund [water assistance fund].

(c) Money received from a sale of unappropriated public water or other water acquired by the state and stored by it or for it in a facility for which funds were provided from the appropriation made by the 67th Legislature in Section 2, Chapter 12, Acts of the 67th Legislature, 1st Called Session, 1981, or interest earned on the money constituting that appropriation, must be deposited in a special account in the water assistance fund.

SECTION 5. Sections 17.011, 17.028, 17.077, and 17.271, Water Code, as amended, are amended to read as follows:

Section 17.011. ISSUANCE OF WATER DEVELOPMENT BONDS. (a) The board, by resolution, from time to time may provide for the issuance of negotiable bonds in an aggregate amount not to exceed \$400 million pursuant to [the provisions of] Article III, Section 49-c and Section 49-d, [as amended,] of the Texas Constitution, and the issuance of additional negotiable bonds in an aggregate amount not to exceed \$200 million pursuant to [the provisions of] Article III, Section 49-d-1, [as amended,] of the Texas Constitution and not to exceed \$300 million pursuant to Article III, Section 49-d-2, of the Texas Constitution.

(b) The board, by resolution, from time to time may provide for the issuance of negotiable bonds in an aggregate amount of not to exceed the total principal amount the board has obligated the Texas Water Development Fund for the acquisition of storage facilities by the execution of a contract with the United States or any of its agencies under Article III, Section 49-d, of the Texas Constitution, and to the extent the bond proceeds are utilized to reduce the board's obligation under a contract with the United States or any of its agencies under Article III, Section 49-d, of the Texas Constitution, the bonds may not be considered in determining the aggregate amount of bonds issued under Article III, Sections 49-c, [and] 49-d, and 49-d-2, of the Texas Constitution, in addition to the contract with the United States or any of its agencies.

Section 17.028. PAYMENT ENFORCEABLE BY MANDAMUS. Payment of the bonds and performance of official duties prescribed by Article III, Sections [Section] 49-c, [Section] 49-d, [as amended, and Section] 49-d-1, and 49-d-2, [as amended,] of the Texas Constitution and by [the provisions of] this subchapter may be enforced in any court of competent jurisdiction by mandamus or other appropriate proceeding.

Section 17.077. CREDITS TO CLEARANCE FUND. Except for proceeds from the sale of bonds and proceeds from the sale, refunding, or prepayment, of political subdivision bonds acquired in carrying out the purposes in Article III, Sections 49-c, 49-d, [and] 49-d-1, and 49-d-2, of the Texas Constitution, which shall be deposited in accordance with Sections 17.072, 17.134, and 17.180 of this code, and the proceeds from the sale, refinancing, or other liquidation of the investments made under Sections 17.083, 17.085, and 17.086 of this code which shall be deposited in the fund that provided the money for the investment, all money received by the board in any fiscal year, including all amounts received as repayment of loans to political subdivisions and interest on those loans, shall be credited to the clearance fund. Money in the clearance fund may be transferred at

any time to the interest and sinking fund until the reserve in that fund is equal to the average annual principal and interest requirements on all outstanding bonds.

Section 17.271. PURPOSE. The purpose of this subchapter is to provide for making loans of water quality enhancement funds authorized by Article III, Sections 49-d-1 and 49-d-2, [~~Section 49-d-1, as amended,~~] of the Texas Constitution to political subdivisions of the state for the construction of treatment works.

SECTION 6. Subdivision (10), Section 16.001, Water Code, is amended to read as follows:

(10) "Water development bonds" means the Texas Water Development Bonds authorized by Article III, Sections [~~Section~~] 49-c[, ~~as amended,~~] and [~~Section~~] 49-d, [~~as amended,~~ of Article III] of the Texas Constitution and bonds dedicated to use for the purposes of those sections under Article III, Section 49-d-2, of the Texas Constitution.

SECTION 7. Subdivisions (10) and (11), Section 17.001, Water Code, are amended to read as follows:

(10) "Water development bonds" means the Texas Water Development Bonds authorized by Article III, Sections [~~Section~~] 49-c and[, ~~as amended,~~ and Section] 49-d, [~~as amended,~~ of Article III] of the Texas Constitution and bonds dedicated to use for the purposes of those sections under Article III, Section 49-d-2, of the Texas Constitution.

(11) "Water quality enhancement bonds" means the Texas Water Development Bonds authorized by Article III, Section 49-d-1, [~~as amended,~~ of Article III] of the Texas Constitution and bonds dedicated to use for the purposes of that section by Article III, Section 49-d-2, of the Texas Constitution.

SECTION 8. Subdivision (4), Section 17.272, Water Code, is amended to read as follows:

(4) "Water quality enhancement funds" means the proceeds from the sale of Texas Water Development Bonds issued under the authority of Article III, Section 49-d-1, [~~as amended,~~] of the Texas Constitution and proceeds from the sale of bonds dedicated to water quality enhancement purposes under Article III, Section 49-d-2, of the Texas Constitution.

SECTION 9. (a) Sections 1 through 4 of this Act take effect only if the constitutional amendment proposed by S.J.R No. 42, 68th Legislature, Regular Session, 1983, is adopted.

(b) Sections 5 through 8 of this Act take effect only if the constitutional amendment proposed by S.J.R No. 40, 68th Legislature, Regular Session, 1983, is adopted.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Craddick

Amend C.S.S.B. 1236 on page 21, line 2 by striking the figure "42" and substituting therefor the figure "40"

Floor Amendment No. 2 - DeLay

Amend S.B. 1236 as follows:

(1) Renumber Sections 1-10 as Sections 2-11 and insert a new Section 1 to read as follows:

SECTION 1. Subdivision (6), Section 15.001, Water Code, is amended to read as follows:

"(6) 'Project' means any undertaking or work to conserve, convey, and develop surface or subsurface water resources of the state, to provide for the



maintenance and enhancement of the quality of the water of the state, to provide flood control, subsidence control, and drainage, and to carry out other purposes defined by board rules.”.

(2) On page 2, strike lines 12-16 and substitute the following:

“Section 15.102. FINANCIAL ASSISTANCE. The loan fund may be used by the board to provide loans of financial assistance to political subdivisions for the construction, acquisition, improvement, or enlargement of projects involving water conservation, water development, or water quality enhancement or providing drainage, flood control, or subsidence control within any watershed as provided [defined] by legislative appropriations, this chapter, and the board rules.”.

The amendments were read.

Senator Howard moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 1236 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Howard, Chairman; Montford, Sims, Santiesteban and Farabee.

#### SENATE RULE 74a SUSPENDED

On motion of Senator Whitmire and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to S.B. 853.

#### SENATE BILL 853 WITH HOUSE AMENDMENT

Senator Whitmire called S.B. 853 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.  
Floor Amendment No. 1 - Pennington

Amend S.B. 853:

Amend Article 2372 page 3, Sec. 2. (1) as follows:

Sec. 2. In this Act:

(1) “Person” means an individual, partnership or corporation.

The amendment was read.

Senator Whitmire moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 853 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Whitmire, Chairman; Santiesteban, Mauzy, Vale and Parker.

**SENATE BILL 895 WITH HOUSE AMENDMENTS**

Senator Montford (in behalf of Senator Caperton) called **S.B. 895** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.  
Committee Amendment No. 1 - Geistweidt

Amend **S.B. 895**, as engrossed, by striking lines 7 through 18 on page 5 and substituting the following:

"Section 27.0511. CONDITION OF CERTAIN PERMITS. (a) If the railroad commission receives an application for an injection well permit for a well that is to be used for enhanced recovery of oil by injection of fresh water, industrial waste, or municipal waste, before a permit for the well may be granted, the railroad commission shall notify the department of the application and the railroad commission shall require the applicant for the permit to provide written information relating to the material that the applicant plans to inject into the well for enhanced recovery purposes and if the applicant plans to inject fresh water for enhanced recovery purposes, information relating to other material available to the applicant that might be used in the alternative, and shall make the determination required by Subsections (c) and (d) of this section.

Committee Amendment No. 2 - Geistweidt

Amend **S.B. 895**, as engrossed, by striking lines 19 through 25 on page 5 and substituting the following:

"(b) The department may supply information to the railroad commission on the location and quantities of materials which might be used to inject into the well for enhanced recovery.

Committee Amendment No. 3 - Geistweidt

Amend **S.B. 895**, by renumbering Sections 5 and 6 as Sections 6 and 7 and adding a new Section 5 to read as follows:

SECTION 5. Chapter 91, Natural Resources Code, is amended by adding Subchapter K to read as follows:

**SUBCHAPTER K. SALTWATER DISPOSAL PITS**

Sec. 91.451. DEFINITION. In this subchapter, "saltwater disposal pit" means a collecting pit on the surface of the ground used to store or evaporate oil field brines, geothermal resource water, or other mineralized water.

Sec. 91.452. PROHIBITED ACTIVITY. Except as provided by this subchapter, a person conducting oil and gas development or production operations, geothermal operations, or underground hydrocarbon storage operations may not use a saltwater disposal pit for storage or evaporation of oil field brines.

Sec. 91.453. COMMISSION AUTHORIZATION. (a) On written application, the commission or its designated employee may administratively authorize a person to use a saltwater disposal pit on a temporary emergency basis.

(b) On written application, the commission or its designated employee may administratively authorize a person to use an impervious surface pit in conjunction with a geothermal operation, an underground hydrocarbon storage operation, or an approved saltwater disposal operation.

(c) In cases in which it may be conclusively shown that use of a saltwater disposal pit can cause no pollution of productive land or of groundwater or surface water supplies because there is no such land or are no such water supplies or because of physical isolation of that land or those water supplies by naturally occurring

impervious barriers, the commission or its designated employee administratively may authorize a person to use a saltwater disposal pit.

(d) An authorization under this section must be in writing and must state the conditions under which any pit may be operated.

Sec. 91.454. REMOVAL OF AUTHORIZED PITS. (a) A person who is authorized to operate a saltwater disposal pit under Section 91.453 of this code shall close the pit within 45 days after being ordered to close the pit by the commission; provided that the commission may grant an extension or extensions for a reasonable period or periods of time on a showing of good cause or upon request for an extension by the surface owner or owners of the land upon which the pit is situated.

(b) A saltwater disposal pit must be closed in compliance with this subchapter and rules, standards, and specifications adopted by the commission.

(c) In closing a saltwater disposal pit, the person authorized to operate the pit shall remove all salt water and wastes and shall backfill and compact in compliance with commission-approved procedures.

Sec. 91.455. RULES, STANDARDS, AND SPECIFICATIONS. (a) The commission shall adopt rules that:

(1) define the procedures for obtaining authorization to operate a saltwater disposal pit;

(2) define the conditions under which authorizations for saltwater disposal pits will be granted;

(3) establish standards for saltwater disposal pits authorized by the commission;

(4) provide for standards for the proper closing of saltwater disposal pits authorized by the commission; and

(5) provide other standards, procedures, and requirements necessary to carry out this subchapter.

(b) The commission, by rule, shall require:

(1) liner specifications and installation procedures that are adequate to insulate a saltwater disposal pit; and

(2) the draining, cleaning, and closing of saltwater disposal pits.

Sec. 91.456. INJUNCTIVE RELIEF. If a person is operating a saltwater disposal pit in violation of this subchapter or the commission's rules, standards, or specifications, the commission may have the attorney general institute a suit in a district court in the county in which the saltwater disposal pit is located for injunctive relief to restrain the person from continuing to operate the pit in violation of this subchapter or the rules, standards, or specifications of the commission.

Sec. 91.457. REMOVAL OF UNAUTHORIZED PIT. (a) The commission may order a person who is operating a saltwater disposal pit in violation of this subchapter to close the pit in compliance with this subchapter and commission rules, standards, and specifications, at the pit operator's own expense.

(b) If a person ordered to close a saltwater disposal pit under Subsection (a) of this section fails or refuses to close the pit in compliance with the commission's order and rules, the commission shall close the pit and shall direct the attorney general to file suits in any courts of competent jurisdiction in Travis County to recover applicable penalties and the costs incurred by the commission in closing the saltwater disposal pit.

Sec. 91.458. CRIMINAL PENALTY. (a) A person who violates Section 91.452 of this code or an order of the commission under Subsection (a), Section 91.457, commits an offense.

(b) An offense under this section is a Class A misdemeanor.

Sec. 91.459. CIVIL PENALTY. (a) A person who violates this chapter or a rule, standard, or specification of the commission or who fails to close a saltwater disposal pit in compliance with this chapter, a rule, standard, or specification of the

commission, an order of the commission, or the authorization for the pit is subject to a civil penalty of not less than \$100 nor more than \$10,000 for each act of violation or failure to comply.

(b) The attorney general shall recover the civil penalty provided by Subsection (a) of this section in a court of competent jurisdiction.

(c) Any penalties or costs recovered by the attorney general under Section 91.457 of this code shall be deposited in a saltwater disposal fund.

(d) A fund is created in the state treasury to be designated as the saltwater disposal pit fund. Money deposited in the fund and any interest earned on money deposited in the fund shall be used by the commission or its employees or agents for the purpose of closing saltwater disposal pits as provided by this subchapter.

Committee Amendment No. 4 - Tow

Amend S.B. 895 by striking Section 6 and substituting the following:

SECTION 6. This Act takes effect only if the constitutional amendments proposed by S.J.R. 40 and S.J.R. 42, 68th Legislature, Regular Session, 1983, are adopted. Applications for injection well permits for wells that are used for enhanced recovery of oil, which applications are received by the Railroad Commission of Texas before the effective date of this Act, are governed by the law in effect on the date the application was received by the railroad commission and that law is continued in effect for that purpose.

Committee Amendment 5 - Geistweidt

Amend Committee Amendment 4 to S.B. 895 to read as follows:

Amend S.B. 895 by striking Section 6 and substituting the following:

SECTION 6. This Act takes effect only if the constitutional amendment proposed by S.J.R. 40, 68th Legislature, Regular Session, 1983, is adopted.

The amendments were read.

Senator Montford moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 895 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Caperton, Chairman; Santiesteban, Sims, Montford and Sharp.

## RECESS

On motion of Senator Mauzy, the Senate at 8:15 o'clock p.m. took recess until 9:00 o'clock a.m. tomorrow.

## MEMORIAL RESOLUTIONS

H.C.R. 261 - (Doggett): Memorial resolution for Odis C. Havis.

S.C.R. 139 - By Brooks, Brown: Memorial resolution for Alfred R. Neumann.

S.R. 737 - By Truan: Memorial resolution for Abraham Rios.

**S.R. 741** - By Truan: Memorial resolution for Carroll Keach, Sr.

**S.R. 742** - By Truan: Memorial resolution for Domingo Pena.

**S.R. 748** - By Truan: Memorial resolution for John Anderson.

**S.R. 749** - By Truan: Memorial resolution for Jovita Mireles.

#### **WELCOME AND CONGRATULATORY RESOLUTIONS**

**H.C.R. 103** - (Whitmire): Requesting the Governor to initiate an annual Distinguished Citizen Award.

**H.C.R. 262** - (Doggett): Commending the Texas Legislative Service.

**H.C.R. 264** - (Doggett): Commending Professor Kenneth E. McIntyre.

**H.C.R. 266** - (Doggett): Commending The University of Texas at Austin.

**H.C.R. 269** - (Caperton): Extending congratulations to Robert G. Cherry.

**H.C.R. 271** - (Traeger): Extending congratulations to Mr. and Mrs. James Hipp.

**H.C.R. 272** - (Brown): Expressing appreciation to the Capitol physicians and nurse.

**H.C.R. 274** - (Harris): Commending Robert B. Anderson.

**S.C.R. 142** - By Whitmire: Requesting Governor to initiate annual Distinguished Citizen Award.

**S.C.R. 143** - By Harris: Commending Robert B. Anderson.

**S.R. 718** - By Edwards: Extending congratulations to Monsignor Mark Deering.

**S.R. 719** - By Sharp: Extending congratulations to Clay Marek.

**S.R. 720** - By Sharp: Extending congratulations to Chad Patschke.

**S.R. 721** - By Sharp: Extending congratulations to Kent Pruett.

**S.R. 722** - By Sharp: Extending congratulations to Simon Robinson.

**S.R. 723** - By Sharp: Commending Mrs. Naomi Chase.

**S.R. 724** - By Sharp: Commending Ms. Kathy Courtemanche.

**S.R. 725** - By Sharp: Extending congratulations to Ms. Sharon Wolf.

**S.R. 726** - By Sharp: Extending congratulations to FFA Dairy Cattle Judging team members from Hutto.

**S.R. 727** - By Sharp: Extending congratulations to Miss Cornelia Smith.

**S.R. 728** - By Sharp: Extending congratulations to Mr. and Mrs. Ken Martin.

**S.R. 729** - By Sharp: Extending congratulations to Miss Jo Nell Miles.

**S.R. 730** - By Sharp: Extending congratulations to Joseph Charles Esterak.

**S.R. 731** - By Truan: Paying tribute to Sabas Gonzalez.

**S.R. 732** - By Truan: Extending congratulations to Mrs. Rosa Gonzalez.

**S.R. 733** - By Truan: Commending Cerebral Palsy of South Texas.

**S.R. 734** - By Truan: Commending Miss Jill Foote.

**S.R. 735** - By Truan: Extending congratulations to Michael Dean Metz.

**S.R. 736** - By Truan: Extending congratulations to Julian Rodriguez.

S.R. 738 - By Truan: Extending congratulations to Olita Parman.

S.R. 739 - By Truan: Extending congratulations to George W. Dahse.

S.R. 740 - By Truan: Extending congratulations to Lucas Reyes.

S.R. 743 - By Truan: Extending congratulations to Cristoval Rodriguez.

S.R. 744 - By Truan: Extending congratulations to Fidel Leal.

S.R. 745 - By Truan: Extending congratulations to Kent Ullberg.

S.R. 746 - By Truan: Extending congratulations to Bernice Sanders Leonard.

S.R. 747 - By Truan: Extending congratulations to Guadalupe Chapa.

S.R. 750 - By Truan: Extending congratulations to Joe Moron.

S.R. 751 - By Truan: Commending all parties who have worked for the newly constructed Plaza de Pineda in Corpus Christi.

#### APPENDIX

##### Sent to Governor (May 28, 1983)

S.B. 112	S.B. 713	S.B. 569
S.B. 410	S.B. 742	S.B. 586
S.B. 461	S.B. 779	S.B. 649
S.B. 515	S.B. 799	S.B. 668
S.B. 587	S.B. 801	S.B. 715
S.B. 647	S.B. 808	S.B. 718
S.B. 741	S.B. 834	S.B. 766
S.B. 775	S.B. 838	S.B. 776
S.B. 1293	S.B. 873	S.B. 816
S.B. 1252	S.B. 876	S.B. 818
S.B. 1322	S.B. 899	S.B. 836
S.B. 1328	S.B. 920	S.B. 870
S.B. 1367	S.B. 927	S.B. 893
S.B. 1404	S.B. 1022	S.B. 894
S.J.R. 22	S.B. 1034	S.B. 912
S.B. 7	S.B. 1140	S.B. 913
S.B. 45	S.B. 1167	S.B. 925
S.B. 118	S.B. 1180	S.B. 940
S.B. 120	S.B. 1181	S.B. 943
S.B. 129	S.B. 1208	S.B. 946
S.B. 135	S.B. 1226	S.B. 948
S.B. 230	S.B. 1260	S.B. 1000
S.B. 250	S.B. 1298	S.B. 1036
S.B. 272	S.B. 1338	S.B. 1075
S.B. 273	S.B. 21	S.B. 1086
S.B. 342	S.B. 116	S.B. 1088
S.B. 383	S.B. 137	S.B. 1094
S.B. 389	S.B. 225	S.B. 1097
S.B. 432	S.B. 303	S.B. 1128
S.B. 444	S.B. 317	S.B. 1141
S.B. 468	S.B. 329	S.B. 1156
S.B. 596	S.B. 330	S.B. 1215
S.B. 620	S.B. 395	S.B. 1225

S.B. 624	S.B. 409	S.B. 1242
S.B. 627	S.B. 428	S.B. 1314
S.B. 643	S.B. 483	S.B. 1321
S.B. 657	S.B. 488	S.B. 1334
S.B. 662	S.B. 516	S.B. 1371
S.B. 710	S.B. 549	

**SEVENTY-SEVENTH DAY**

(Continued)

(Sunday, May 29, 1983)

**AFTER RECESS**

The Senate met at 9:00 o'clock a.m. and was called to order by Senator Blake.

**LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer (Senator Blake in Chair) announced that the time had arrived for the consideration of the Local and Uncontested Bills Calendar.

On motion of Senator Mauzy and by unanimous consent, the regular order of business was suspended on the bills and resolutions on the Local and Uncontested Bills Calendar so they could be considered on second reading in the order they are listed on the Calendar.

After suspending the regular order by unanimous consent, the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time and passed: (Sponsor, vote on Constitutional Three-Day Rule and final passage indicated after caption of each bill)

**S.B. 724** (Parker) Relating to information required to be posted in the places of business of certain licensed occupations. (30-1) Washington "Nay" (31-0)

**S.B. 1437** (Sims) Relating to selection of jurors for the municipal court of record in Midland. (30-1) Washington "Nay" (31-0)

**S.R. 615** (Sims) Memorialize the United States Congress not to repeal or amend the Economic Recovery Tax Act of 1981. (vv) Sharp, Mauzy and Parker "Nay"

**S.R. 672** (Parker) Resolving that the Finance Committee of the Senate monitor changes in federal recreation programs. (vv)

**S.C.R. 133** (McFarland) Granting DiscoverAir permission to sue the State of Texas. (vv)

**S.C.R. 136** (Mauzy) Granting Thelma McCall permission to sue the State of Texas. (vv)

**H.B. 210** (Edwards) Relating to the designation and service of certain public school officials as deputy voter registrars. (30-1) Washington "Nay" (31-0)

**H.B. 310** (Leedom) Relating to expenditure of the proceeds from airport revenue bonds by certain cities. (30-1) Washington "Nay" (31-0)

**H.B. 326** (Montford) Relating to the form in which certain government records may be kept. (30-1) Washington "Nay" (31-0)

**C.S.H.B. 337** (Brooks) Relating to the assignment of judges by the presiding judges of administrative judicial districts. (30-1) Washington "Nay" (31-0)